

Appeal No. 24-10373-AA

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CHG Medical Staffing Inc,
Plaintiff-Appellee

vs.

Rachel Shafer
Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Florida
Hon. Raag Singhal
Case No. 0:23-cv-61703-AHS

APPELLANT'S APPENDIX

Shlomo Y. Hecht
SHLOMO Y. HECHT, PA
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Attorney for Defendant-Appellant
Rachel Shafer

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DOCKET SHEET

**U.S. District Court
Southern District of Florida (Ft Lauderdale)
CIVIL DOCKET FOR CASE #: 0:23-cv-61703-AHS**

CHG Medcial Staffing, Inc v. Shafer et al
Assigned to: Judge Raag Singhal
Case in other court: USCA, 24-10373-A
Cause: 18:1836(a) Injunction against Misappropriation of Trade
Secrets

Date Filed: 09/05/2023
Jury Demand: Defendant
Nature of Suit: 880 Defend Trade Secrets
Act (of 2016)
Jurisdiction: Federal Question

Plaintiff

CHG Medical Staffing, Inc.
a Delaware Corporation
doing business as
RNnetwork

represented by **Adam Grant Schultz**
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V.

Defendant

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an individual

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Defendant

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Defendant

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an Oklahoma Limited Liability Company

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Date Filed	#	Docket Text
09/05/2023	<u>1</u>	COMPLAINT against AHS STAFFING, LLC, LISLEY ROSSI, RACHEL SHAFER. Filing fees \$ 402.00 receipt number AFLSDC-16894037, filed by CHG MEDICAL STAFFING, INC. d/b/a RNNETWORK, a Delaware Corporation. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L)(Schwartz, Jennifer) (Entered: 09/05/2023)
09/05/2023	2	Clerks Notice of Judge Assignment to Judge Raag Singhal. Pursuant to 28 USC 636(c), the parties are hereby notified that the U.S. Magistrate Judge Alicia O. Valle is available to handle any or all proceedings in this case. If agreed, parties should complete and file the Consent form found on our website. It is not necessary to file a document indicating lack of consent. (wce) (Entered: 09/05/2023)
09/05/2023	3	<u>NOTICE OF COURT PRACTICE</u>

		<p>Unless otherwise specified by the Court, every motion, legal memorandum, brief, and otherwise shall: be double-spaced, in justified alignment, in 12-point font, using either Times New Roman or Arial typeface. This Notice does not supplant the requirements and provisions of Local Rule 7.1(c). The Court cautions parties against excessive use of footnotes.</p> <p>Multiple Plaintiffs or Defendants shall file joint motions (and responses to motions) with co-parties unless there are clear conflicts of position. If conflicts of position exist, parties shall explain the conflicts in their separate motions (and responses).</p> <p>Parties are encouraged to seek extensions of time in a timely fashion. "A motion for extension of time is not self-executing; no motion is, unless expressly provided for by the applicable rule. Yet, by filing these motions on or near the last day, and then sitting idle pending the Court's disposition of the motion, parties essentially grant their own motion. The Court will not condone this." <i>Compere v. Nusret Miami, LLC</i>, 2020 WL 2844888, at *2 (S.D. Fla. May 7, 2020) (internal citations omitted).</p> <p>Exhibits to pleadings and motions shall be docketed in accordance with the Courts CM/ECF procedures, Rule 3L.(2):</p> <p style="text-align: center;">(2) Describing an Attachment to a Docket Entry</p> <p style="padding-left: 40px;">A party filing an attachment to a document shall select one of the prescribed attachment categories from the drop-down menu (e.g., affidavit, transcript), provide an alphabetical or numerical designation (e.g., Exhibit A, Exhibit 1), and descriptively name each attachment (e.g., Exhibit 1 - Affidavit of Boo Radley) in a manner that enables the Court to easily locate and distinguish attachments. (Emphasis added.)</p> <p>Local Rule 16.4, Local Rules for the United States District Court for the Southern District of Florida, requires that a Notice of Settlement "shall be filed and served jointly by counsel for all parties to the settlement." A unilateral notice of settlement will not stay pre-trial deadlines or hearings.</p> <p>Failure to comply with any of these procedures may result in the imposition of appropriate sanctions.</p> <p>Signed by Judge Raag Singhal on 9/5/2023. (jgr) (Entered: 09/05/2023)</p>
09/05/2023	4	<p><u>PAPERLESS ORDER TO FILE CERTIFICATE OF INTERESTED PERSONS</u></p> <p>Within SEVEN (7) DAYS of entry of an appearance, each party, including governmental parties, must file certificates of interested parties and corporate disclosure statements that contain a complete list of persons, associated persons, firms, partnerships, or corporations that have a financial interest in the outcome of this case, including subsidiaries, conglomerates, affiliates, parent corporations, and other identifiable legal entities related to a party. The parties shall not include Judge Singhal or the paired magistrate judges unless they have an interest in the litigation. Throughout the pendency of the action, the parties are under a continuing obligation to amend, correct, and update the certificates.</p> <p>Signed by Judge Raag Singhal on 9/5/2023. (jgr) (Entered: 09/05/2023)</p>
09/05/2023	<u>5</u>	<p>ORDER REQUIRING SCHEDULING REPORT. Signed by Judge Raag Singhal on 9/5/2023. <i>See attached document for full details.</i> (ebz) (Entered: 09/06/2023)</p>

09/07/2023	6	NOTICE of Filing Proposed Summons(es) by CHG Medical Staffing, Inc. re 1 Complaint, filed by CHG Medical Staffing, Inc. (Attachments: # 1 Summon(s) AHS, # 2 Summon(s) Rossi, # 3 Summon(s) Shafer) (Schwartz, Jennifer) (Entered: 09/07/2023)
09/07/2023	7	Summons Issued as to AHS STAFFING, LLC, LISLEY ROSSI, RACHEL SHAFER. (pcs) (Entered: 09/07/2023)
09/08/2023	8	NOTICE of Filing Proposed Summons(es) (<i>Revised for AHS</i>) by CHG Medical Staffing, Inc. re 1 Complaint, filed by CHG Medical Staffing, Inc. (Attachments: # 1 Summon(s) Revised Summons) (Schultz, Adam) (Entered: 09/08/2023)
09/08/2023	9	Summons Issued as to AHS STAFFING, LLC. (pcs) (Entered: 09/08/2023)
09/12/2023	10	SUMMONS (Affidavit) Returned Executed on 1 Complaint, with a 21 day response/answer filing deadline pursuant to Fed. R. Civ. P. 12 by CHG Medical Staffing, Inc.. AHS STAFFING, LLC served on 9/11/2023, response/answer due 10/2/2023; LISLEY ROSSI served on 9/9/2023, response/answer due 10/2/2023. (Attachments: # 1 Summon(s) Return of Service for Rossi)(Schwartz, Jennifer) (Entered: 09/12/2023)
09/18/2023	11	SUMMONS (Affidavit) Returned Executed on 1 Complaint, with a 21 day response/answer filing deadline pursuant to Fed. R. Civ. P. 12 by CHG Medical Staffing, Inc.. RACHEL SHAFER served on 9/18/2023, response/answer due 10/10/2023. (Schwartz, Jennifer) (Entered: 09/18/2023)
09/19/2023	12	Plaintiff's MOTION for Preliminary Injunction by CHG Medical Staffing, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L)(Schwartz, Jennifer) (Entered: 09/19/2023)
09/20/2023	13	Plaintiff's Certificate of Other Affiliates/Corporate Disclosure Statement by CHG Medical Staffing, Inc. identifying Corporate Parent CHG Companies, Inc. for CHG Medical Staffing, Inc. (Schultz, Adam) (Entered: 09/20/2023)
09/26/2023	14	NOTICE of Attorney Appearance by John Cody German on behalf of AHS Staffing, LLC. Attorney John Cody German added to party AHS Staffing, LLC(pty:dft). (German, John) (Entered: 09/26/2023)
09/26/2023	15	NOTICE of Attorney Appearance by Justin Steven Maya on behalf of AHS Staffing, LLC. Attorney Justin Steven Maya added to party AHS Staffing, LLC(pty:dft). (Maya, Justin) (Entered: 09/26/2023)
09/29/2023	16	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 1 Complaint, by AHS Staffing, LLC. (Attachments: # 1 Text of Proposed Order Text of Agreed Order)(German, John) (Entered: 09/29/2023)
09/29/2023	17	PAPERLESS ORDER granting 16 Motion for Extension of Time to File Response/Answer to a Complaint or Other Case Initiating Document by AHS Staffing, LLC. Response/Answer due 10/10/2023. Signed by Judge Raag Singhal on 9/29/2023. (pb00) (Entered: 09/29/2023)
09/29/2023	18	Unopposed MOTION for Extension of Time to File Response/Reply/Answer to <i>Complaint</i> by Lisley Rossi. Attorney Gregory Steven Sconzo added to party Lisley Rossi(pty:dft). (Attachments: # 1 Text of Proposed Order)(Sconzo, Gregory) (Entered: 09/29/2023)
09/29/2023	19	PAPERLESS ORDER granting 18 Motion for Extension of Time to File Response/Answer to a Complaint or Other Case Initiating Document by Lisley Rossi.

		Response/Answer due 10/12/2023. Signed by Judge Raag Singhal on 9/29/2023. (pb00) (Entered: 09/29/2023)
10/09/2023	20	NOTICE of Attorney Appearance by Shlomo Y Hecht on behalf of Rachel Shafer. Attorney Shlomo Y Hecht added to party Rachel Shafer(pty:dft). (Hecht, Shlomo) (Entered: 10/09/2023)
10/10/2023	21	MOTION for Extension of Time to respond to Complaint and Preliminary Injunction re 12 Plaintiff's MOTION for Preliminary Injunction , 1 Complaint, by Rachel Shafer. Responses due by 10/24/2023 (Hecht, Shlomo) (Entered: 10/10/2023)
10/10/2023	22	Defendant's MOTION to Dismiss 1 Complaint, by AHS Staffing, LLC. Responses due by 10/24/2023 (Attachments: # 1 Exhibit Contract with Forum Selection Clause)(Maya, Justin) (Entered: 10/10/2023)
10/11/2023	23	PAPERLESS ORDER granting 21 Defendant Rachel Shafer's Motion for Extension of Time to file response to Plaintiff's complaint and to Plaintiff's motion for preliminary injunction. Defendant has until 10/20/2023 to file her responses. Signed by Judge Raag Singhal on 10/11/2023. (jgr) (Entered: 10/11/2023)
10/11/2023		Reset Deadlines as to 12 Plaintiff's MOTION for Preliminary Injunction .(Responses due by 10/20/2023), Reset Response/Answer Due Deadline: Rachel Shafer response/answer due 10/20/2023. (ls)(per DE #23) (Entered: 10/12/2023)
10/11/2023	24	ORDER SETTING HEARING. ORDER Setting Hearing on Motion 12 Plaintiff's MOTION for Preliminary Injunction : Motion Hearing set for 10/31/2023 10:00 AM in Fort Lauderdale Division before Judge Raag Singhal. Signed by Judge Raag Singhal on 10/11/2023. <i>See attached document for full details.</i> (nan) (Entered: 10/12/2023)
10/13/2023	25	Joint MOTION for Permanent Injunction by CHG Medical Staffing, Inc.. (Attachments: # 1 Exhibit A)(Schwartz, Jennifer) (Entered: 10/13/2023)
10/13/2023	26	"STRICKEN" NOTICE of Settlement (<i>Joint</i>) by CHG Medical Staffing, Inc. (Schwartz, Jennifer) Modified on 10/16/2023 (ls). (per DE #28) (Entered: 10/13/2023)
10/13/2023	27	NOTICE of Attorney Appearance by Horacio Jose Ruiz-Lugo on behalf of AHS Staffing, LLC. Attorney Horacio Jose Ruiz-Lugo added to party AHS Staffing, LLC(pty:dft). (Ruiz-Lugo, Horacio) (Entered: 10/13/2023)
10/13/2023	28	PAPERLESS ORDER STRIKING 26 Notice of Settlement as to Defendant Lisley Rossi. The Eleventh Circuit's recent decision in <i>City of Jacksonville v. Jacksonville Hosp. Holdings, L.P.</i> , No. 22-12419, 2023 WL 5944193, at *1 (11th Cir. Sept. 13, 2023) and Fed. R. Civ. P. 41(a)(1)(A)(ii) require all parties who have appeared in a litigation to sign stipulations of dismissal as to any individual defendants dismissed from the action. Signed by Judge Raag Singhal on 10/13/2023. (jgr) (Entered: 10/13/2023)
10/16/2023	29	Defendant's Certificate of Other Affiliates/Corporate Disclosure Statement by AHS Staffing, LLC identifying Corporate Parent American Health Staffing Group, Inc for AHS Staffing, LLC (Maya, Justin) (Entered: 10/16/2023)
10/17/2023	30	PAPERLESS ORDER for the parties to file exhibit and witness lists for the 10/31/2023 hearing on 12 Plaintiff's MOTION for Preliminary Injunction by 10/27/2023 at 5:00pm. Signed by Judge Raag Singhal on 10/17/2023. (jgr) (Entered: 10/17/2023)
10/17/2023	31	Defendant's MOTION to Stay re 24 Order Setting Hearing on Motion, <i>for Preliminary Injunction</i> by AHS Staffing, LLC. Responses due by 10/31/2023 (Maya, Justin) (Entered: 10/17/2023)

10/18/2023	32	PAPERLESS ORDER expediting Plaintiff's response to Defendant's Motion to Stay 31 . Plaintiff's response is due 10/24/2023. Since Plaintiff's response to Defendant's Motion to Dismiss 22 is due by 10/24/2023 and both Defendant's Motion to Dismiss 22 and Motion to Stay 31 raise similar issues, Plaintiff can respond to both motions with one response. Signed by Judge Raag Singhal on 10/18/2023. (jgr) (Entered: 10/18/2023)
10/18/2023		Reset Deadlines as to 31 Defendant's MOTION to Stay re 24 Order Setting Hearing on Motion, <i>for Preliminary Injunction</i> . Responses due by 10/24/2023 (ls)(per DE #32) (Entered: 10/19/2023)
10/20/2023	33	Unopposed Motion for Extension of Time to File Response/Reply/Answer as to 12 Plaintiff's MOTION for Preliminary Injunction by AHS Staffing, LLC. Responses due by 11/3/2023 (Attachments: # 1 Text of Proposed Order Agreed Order)(Maya, Justin) Modified Relief on 10/25/2023 (ls). (Entered: 10/20/2023)
10/20/2023	34	MOTION for Extension of Time to File Response/Reply/Answer as to 12 Plaintiff's MOTION for Preliminary Injunction by Rachel Shafer. (Hecht, Shlomo) (Entered: 10/20/2023)
10/20/2023	35	MOTION TO DISMISS 1 Complaint, FOR FAILURE TO STATE A CLAIM by Rachel Shafer. Responses due by 11/3/2023 (Hecht, Shlomo) (Entered: 10/20/2023)
10/20/2023	36	RESPONSE in Opposition re 12 Plaintiff's MOTION for Preliminary Injunction filed by AHS Staffing, LLC. Replies due by 10/27/2023. (Maya, Justin) (Entered: 10/20/2023)
10/24/2023	37	RESPONSE in Opposition re 31 Defendant's MOTION to Stay re 24 Order Setting Hearing on Motion, <i>for Preliminary Injunction</i> , 22 Defendant's MOTION to Dismiss 1 Complaint, (<i>Omnibus</i>) filed by CHG Medical Staffing, Inc.. Replies due by 10/31/2023. (Schwartz, Jennifer) (Entered: 10/24/2023)
10/24/2023	38	RESPONSE in Opposition re 12 Plaintiff's MOTION for Preliminary Injunction filed by Rachel Shafer. Replies due by 10/31/2023. (Hecht, Shlomo) (Entered: 10/24/2023)
10/25/2023	39	Clerk's Notice to Filer re 33 Unopposed MOTION for Extension of Time to Respond to Plaintiffs Motion for Preliminary Injunction, re 12 Plaintiff's MOTION for Preliminary Injunction . Filer Selected the Wrong Motion Relief(s); ERROR - The Filer selected the wrong motion relief(s) when docketing the motion. The correction was made by the Clerk. It is not necessary to refile this document but future motions filed must include applicable reliefs. (ls) (Entered: 10/25/2023)
10/26/2023	40	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 36 Response in Opposition to Motion by CHG Medical Staffing, Inc.. (Attachments: # 1 Text of Proposed Order)(Schultz, Adam) (Entered: 10/26/2023)
10/26/2023	41	PAPERLESS ORDER denying as moot 33 Motion for Extension of Time to File Response in light of Defendant AHS Staffing filing a timely response 36 . Signed by Judge Raag Singhal on 10/26/2023. (jgr) (Entered: 10/26/2023)
10/26/2023	42	PAPERLESS ORDER granting 34 Defendant Rachel Shafer's Motion for Extension of Time to File Response to Motion for Preliminary Injunction. The Court accepts Defendant Shafer's response on 10/24/2023 38 as compliant with the extension. Signed by Judge Raag Singhal on 10/26/2023. (jgr) (Entered: 10/26/2023)
10/26/2023	43	PAPERLESS ORDER granting 40 Motion for Extension of Time to File Reply Defendants Response in Opposition to Plaintiffs Motion for Preliminary Injunction. Reply is due by 10/30/2023. Signed by Judge Raag Singhal on 10/26/2023. (jgr) (Entered: 10/26/2023)

10/27/2023	44	Exhibit and Witness List by CHG Medical Staffing, Inc... (Schwartz, Jennifer) (Entered: 10/27/2023)
10/27/2023	45	ORDER denying 22 Motion to Dismiss and 31 Motion to Stay. The case will proceed with the hearing on Plaintiff's Motion for Preliminary Injunction on October 31, 2023 at 10:00 AM. Signed by Judge Raag Singhal on 10/27/2023. <i>See attached document for full details.</i> (jgr) (Entered: 10/27/2023)
10/27/2023	46	Exhibit and Witness List <i>for Preliminary Injunction Hearing Scheduled 10.31.2023</i> by Rachel Shafer.. (Attachments: # 1 Exhibit Notice of Termination of Employment 10.20.23, # 2 Exhibit Kerry Black Email Dated June 16, 2023, # 3 Exhibit Keela Briles Email Dated April 7, 2023, # 4 Exhibit Gross Margin Details Forward March 23, 2023, # 5 Exhibit Working and Awaiting Forward March 9, 2023, # 6 Exhibit Mary Coombs Gross Margin Details May 1, 2023, # 7 Exhibit Message to Griffin Kabala using Rachel's Name from RNN on April 10, 2023.)(Hecht, Shlomo) (Entered: 10/27/2023)
10/27/2023	47	CONSENT ORDER of PERMANENT INJUNCTION re 25 Joint Motion for Entry of Permanent Injunction Order. Signed by Judge Raag Singhal on 10/27/2023. <i>See attached document for full details.</i> (ls) (Entered: 10/30/2023)
10/30/2023	48	Plaintiff's REPLY to Response to Motion re 12 Plaintiff's MOTION for Preliminary Injunction filed by CHG Medical Staffing, Inc.. (Attachments: # 1 Exhibit A)(Schwartz, Jennifer) (Entered: 10/30/2023)
10/30/2023	49	Plaintiff's MOTION for Extension of Time to File Response/Reply/Answer as to 38 Response in Opposition to Motion by CHG Medical Staffing, Inc.. (Attachments: # 1 Text of Proposed Order)(Schultz, Adam) (Entered: 10/30/2023)
10/31/2023	50	PAPERLESS Minute Entry for proceedings held before Judge Raag Singhal: Evidentiary Hearing held on 10/31/2023. Witnesses Eleonore Ruffy, Amy Reed, and Keela Briles testified. Hearing will be continued on 11/7/2023 at 10:00 AM in Fort Lauderdale Division before Judge Raag Singhal. Total time in court: 5 hours : 00 minutes. Attorney Appearances: Justin Steven Maya, Jennifer A. Schwartz, Adam Grant Schultz and Shlomo Y Hecht. Court Reporter: Karl Shires, 954-769-5496 / Karl_Shires@flsd.uscourts.gov. (jgr) (Entered: 10/31/2023)
11/02/2023	51	PAPERLESS ORDER granting 49 Motion for Extension of Time to File Reply. CHG's reply is due by 11/6/2023. Signed by Judge Raag Singhal on 11/2/2023. (jgr) (Entered: 11/02/2023)
11/02/2023	52	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 35 MOTION TO DISMISS 1 Complaint, FOR FAILURE TO STATE A CLAIM by CHG Medical Staffing, Inc.. (Attachments: # 1 Text of Proposed Order)(Schultz, Adam) (Entered: 11/02/2023)
11/03/2023	53	Plaintiff's MOTION to Strike 46 Exhibit and Witness List,, by CHG Medical Staffing, Inc.. Responses due by 11/17/2023 (Schwartz, Jennifer) (Entered: 11/03/2023)
11/03/2023	54	PAPERLESS ORDER granting 52 Motion for Extension of Time to File Response to Motion to Dismiss. Plaintiff's response is due by 11/10/2023. Signed by Judge Raag Singhal on 11/3/2023. (jgr) (Entered: 11/03/2023)
11/03/2023	55	ORDER granting 53 Motion to Strike Defendant Rachel Shafer's Exhibits Numbers 4, 5, and 6 from the Court's Docket. (DE 53). The Clerk of Court is directed to RESTRICT access to docket entry 46-4, 46-5, and 46-6. Plaintiff shall re-file these documents under seal. Signed by Judge Raag Singhal on 11/3/2023. <i>See attached document for full details.</i> (scn) (Entered: 11/06/2023)

11/03/2023	56	NOTICE of Compliance re 55 Order on Motion to Strike. Per order at DE#55, Docket entries 46-4, 46-5, and 46-6 are restricted. (scn) (Entered: 11/06/2023)
11/06/2023	57	Plaintiff's REPLY to Response to Motion re 12 Plaintiff's MOTION for Preliminary Injunction filed by CHG Medical Staffing, Inc.. (Schwartz, Jennifer) (Entered: 11/06/2023)
11/06/2023	58	MOTION to Quash <i>Subpoena</i> by AHS Staffing, LLC. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B)(Maya, Justin) (Entered: 11/06/2023)
11/08/2023	59	TRANSCRIPT of Preliminary Injunction - Day 1 held on 10/31/2023 before Judge Raag Singhal, 1-172 pages, Court Reporter: Karl Shires, 954-769-5496 / Karl_Shires@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/29/2023. Redacted Transcript Deadline set for 12/11/2023. Release of Transcript Restriction set for 2/6/2024. (Shires, Karl) (Entered: 11/08/2023)
11/08/2023	60	"STRICKEN" PAPERLESS Minute Entry for proceedings held before Judge Raag Singhal: Evidentiary Hearing held on 11/8/2023. Witnesses Eleonore Ruffy and Rachel Shafer testified. Total time in court: 7 hours: 00 minutes. Attorney Appearances: Jennifer A. Schwartz, Adam Grant Schultz and Shlomo Y Hecht. The parties are to submit their proposed findings of facts and conclusions of law by close of business 11/16/2023. Court Reporter: Karl Shires, 954-769-5496 / Karl_Shires@flsd.uscourts.gov. (jgr) Modified on 11/14/2023 (ls). (per DE #64) (Entered: 11/08/2023)
11/08/2023	61	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 1 Complaint, by AHS Staffing, LLC. (Attachments: # 1 Text of Proposed Order Proposed Order)(Maya, Justin) (Entered: 11/08/2023)
11/09/2023	62	PAPERLESS ORDER granting 61 AHS Staffing, LLC's Motion for Extension of Time to File Answer to Complaint. Answer due 11/20/2023. Signed by Judge Raag Singhal on 11/9/2023. (jgr) (Entered: 11/09/2023)
11/09/2023	63	TRANSCRIPT of Preliminary Injunction Hearing - Day 2 held on 11/7/2023 before Judge Raag Singhal, 1-228 pages, Court Reporter: Karl Shires, 954-769-5496 / Karl_Shires@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 11/30/2023. Redacted Transcript Deadline set for 12/11/2023. Release of Transcript Restriction set for 2/7/2024. (Shires, Karl) (Entered: 11/09/2023)
11/13/2023	64	PAPERLESS ORDER STRIKING 60 Minute Entry. PAPERLESS Minute Entry for proceedings held before Judge Raag Singhal: Evidentiary Hearing held on 11/7/2023. Witnesses Eleonore Ruffy and Rachel Shafer testified. Total time in court: 7 hours: 00 minutes. Attorney Appearances: Jennifer A. Schwartz, Adam Grant Schultz and Shlomo Y Hecht. The parties are to submit their proposed findings of facts and conclusions of law by close of business 11/16/2023. Court Reporter: Karl Shires, 954-769-5496 / Karl_Shires@flsd.uscourts.gov. (jgr) (Entered: 11/08/2023) Signed by Judge Raag Singhal on 11/13/2023. (jgr) (Entered: 11/13/2023)
11/13/2023	65	RESPONSE in Opposition re 35 MOTION TO DISMISS 1 Complaint, FOR FAILURE TO STATE A CLAIM filed by CHG Medical Staffing, Inc.. Replies due by 11/20/2023. (Schwartz, Jennifer) (Entered: 11/13/2023)

11/15/2023	66	NOTICE by CHG Medical Staffing, Inc. re 12 Plaintiff's MOTION for Preliminary Injunction (<i>Of Filing Declaration of Eleonore Ruffy</i>) (Attachments: # 1 Exhibit A) (Schwartz, Jennifer) (Entered: 11/15/2023)
11/15/2023	67	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to 65 Response in Opposition to Motion by Rachel Shafer. (Hecht, Shlomo) (Entered: 11/15/2023)
11/15/2023	68	Joint MOTION for Extension of Time to File Proposed Findings of Fact and Conclusions of Law by CHG Medical Staffing, Inc.. Responses due by 11/29/2023 (Attachments: # 1 Text of Proposed Order Granting Joint Motion for Extension of Time to File Proposed Findings of Fact and Conclusions of Law)(Schwartz, Jennifer) (Entered: 11/15/2023)
11/20/2023	69	PAPERLESS ORDER granting 68 Motion for Extension of Time. The Parties shall submit their proposed Findings of Fact and Conclusions of Law on or before 5:00 p.m. on Tuesday, 11/21/2023. Signed by Judge Raag Singhal on 11/20/2023. (jgr) (Entered: 11/20/2023)
11/20/2023	70	PAPERLESS ORDER granting 67 Defendant Rachel Shafer's Motion for Extension of Time to File Reply in Support of her Motion to Dismiss. Reply due by 11/27/2023. Signed by Judge Raag Singhal on 11/20/2023. (jgr) (Entered: 11/20/2023)
11/20/2023	71	Joint Motion for Preliminary Injunction by CHG Medical Staffing, Inc.. (Attachments: # 1 Exhibit A)(Schwartz, Jennifer) Modified Relief on 11/21/2023 (ls). (Entered: 11/20/2023)
11/20/2023	72	ANSWER and Affirmative Defenses to Complaint with Jury Demand by AHS Staffing, LLC. (Maya, Justin) (Entered: 11/20/2023)
11/21/2023	73	Clerk's Notice to Filer re 71 Joint MOTION FOR ENTRY OF PRELIMINARY INJUNCTION ORDER . Filer Selected the Wrong Motion Relief(s) ; ERROR - The Filer selected the wrong motion relief(s) when docketing the motion. The correction was made by the Clerk. It is not necessary to refile this document but future motions filed must include applicable reliefs. (ls) (Entered: 11/21/2023)
11/21/2023	74	Proposed Findings of Fact and Proposed Conclusions of Law by CHG Medical Staffing, Inc.. (Schwartz, Jennifer) (Entered: 11/21/2023)
11/21/2023	75	Proposed Findings of Fact and Proposed Conclusions of Law by Rachel Shafer. (Attachments: # 1 Affidavit Ex. A - Shafer Aff.)(Hecht, Shlomo) (Entered: 11/21/2023)
11/22/2023	76	Plaintiff's NOTICE by CHG Medical Staffing, Inc. (<i>Notice of Filing Exhibits Offered Into Evidence at the Hearing on its Motion for Preliminary Injunction</i>) (Attachments: # 1 Exhibit Plaintiff 2, # 2 Exhibit Plaintiff 5, # 3 Exhibit Plaintiff 8, # 4 Exhibit Plaintiff 9, # 5 Exhibit Plaintiff 10, # 6 Exhibit Plaintiff 11, # 7 Exhibit Plaintiff 15, # 8 Exhibit Plaintiff 19, # 9 Exhibit Plaintiff 20, # 10 Exhibit Plaintiff 22, # 11 Exhibit Plaintiff 23, # 12 Exhibit Plaintiff 26, # 13 Exhibit Plaintiff Rebuttal 3, # 14 Exhibit Plaintiff Rebuttal 4) (Schwartz, Jennifer) (Entered: 11/22/2023)
11/27/2023	77	Joint NOTICE by CHG Medical Staffing, Inc. <i>Of Filing Stipulated Confidentiality Agreement and Protective Order between Plaintiff and Defendant AHS Staffing, LLC</i> (Attachments: # 1 Exhibit 1) (Schwartz, Jennifer) (Entered: 11/27/2023)
11/27/2023	78	MOTION for Leave to File <i>Amended Proposed Findings of Facts and Conclusions of Law in Light of New Evidence Raised for the First Time in Rachel Shafer's Filing and Her Admission of Spoliation of Key Evidence</i> by CHG Medical Staffing, Inc.. (Attachments: # 1 Exhibit A)(Schwartz, Jennifer) (Entered: 11/27/2023)

11/27/2023	79	Unopposed MOTION to Seal <i>Exhibits Admitted Into Evidence at Hearing</i> per Local Rule 5.4 by CHG Medical Staffing, Inc.. (Attachments: # 1 Text of Proposed Order) (Schultz, Adam) (Entered: 11/27/2023)
11/27/2023	80	REPLY to Response to Motion re 35 MOTION TO DISMISS 1 Complaint, FOR FAILURE TO STATE A CLAIM filed by Rachel Shafer. (Hecht, Shlomo) (Entered: 11/27/2023)
12/06/2023	81	STIPULATED PRELIMINARY INJUNCTION ORDER. Signed by Judge Raag Singhal on 12/6/2023. <i>See attached document for full details.</i> (ls) (Entered: 12/07/2023)
12/08/2023	82	ORDER Granting 79 Plaintiff's Unopposed Motion To File Under Seal Exhibits Admitted Into Evidence At Hearing. The Exhibits will remain under seal until the case is closed. Once the case is closed, the Clerk will destroy all copies of the Exhibits. Signed by Judge Raag Singhal on 12/8/2023. <i>See attached document for full details.</i> (kpe) (Entered: 12/11/2023)
12/11/2023	83	RESPONSE in Opposition re 78 MOTION for Leave to File <i>Amended Proposed Findings of Facts and Conclusions of Law in Light of New Evidence Raised for the First Time in Rachel Shafer's Filing and Her Admission of Spoliation of Key Evidence</i> filed by Rachel Shafer. Replies due by 12/18/2023. (Hecht, Shlomo) (Entered: 12/11/2023)
12/12/2023		SYSTEM ENTRY - Docket Entry 84 [misc] restricted/sealed until further notice. (1711985) (Entered: 12/12/2023)
12/18/2023	85	Plaintiff's REPLY to 78 MOTION for Leave to File <i>Amended Proposed Findings of Facts and Conclusions of Law in Light of New Evidence Raised for the First Time in Rachel Shafer's Filing and Her Admission of Spoliation of Key Evidence And in Support of Its Motion for Leave to File Amended Proposed Findings of Fact and Conclusion of Law</i> by CHG Medical Staffing, Inc.. (Schultz, Adam) (Entered: 12/18/2023)
12/18/2023	86	ORDER denying 78 Motion for Leave to File Amended Proposed Findings of Facts and Conclusions of Law. Signed by Judge Raag Singhal on 12/19/2023. <i>See attached document for full details.</i> (ls) (Entered: 12/19/2023)
12/20/2023	87	STIPULATED CONFIDENTIALITY AGREEMENT and PROTECTIVE ORDER Between Plaintiff and Defendant AHS Staffing, LLC. Signed by Judge Raag Singhal on 12/20/2023. <i>See attached document for full details.</i> (ls) (Entered: 12/21/2023)
12/26/2023	88	Joint MOTION for Entry of Stipulated Forensic Data Protocol Order re 81 Order on Motion for Preliminary Injunction, by CHG Medical Staffing, Inc.. (Schwartz, Jennifer) (Entered: 12/26/2023)
12/28/2023	89	MOTION for clarification 86 Order on Motion for Leave to File <i>and retain forensic expert</i> by Rachel Shafer. Responses due by 1/11/2024 (Hecht, Shlomo) (Entered: 12/28/2023)
01/02/2024	90	STIPULATED FORENSIC DATA PROTOCOL ORDER granting 88 Joint Motion for Entry of Stipulated Forensic Data Protocol Order. Signed by Judge Raag Singhal on 1/2/2024. <i>See attached document for full details.</i> (ls) (Entered: 01/03/2024)
01/09/2024	91	RESPONSE to Motion re 89 MOTION for clarification 86 Order on Motion for Leave to File <i>and retain forensic expert</i> filed by CHG Medical Staffing, Inc.. Replies due by 1/16/2024. (Schwartz, Jennifer) (Entered: 01/09/2024)
01/16/2024	92	REPLY to Response to Motion re 89 MOTION for clarification 86 Order on Motion for Leave to File <i>and retain forensic expert</i> filed by Rachel Shafer. (Hecht, Shlomo) (Entered: 01/16/2024)

01/28/2024	<u>93</u>	NOTICE of clarification by Rachel Shafer re <u>92</u> Reply to Response to Motion (Hecht, Shlomo) (Entered: 01/28/2024)
01/29/2024	<u>94</u>	Unopposed Motion for Hearing/Status Conference by CHG Medical Staffing, Inc.. (Attachments: # <u>1</u> Text of Proposed Order)(Schwartz, Jennifer) Modified Relief on 1/30/2024 (ls). (Entered: 01/29/2024)
01/30/2024	95	Clerk's Notice to Filer re <u>94</u> Unopposed MOTION For Status Conference . Filer Selected the Wrong Motion Relief(s) ; ERROR - The Filer selected the wrong motion relief(s) when docketing the motion. The correction was made by the Clerk. It is not necessary to refile this document but future motions filed must include applicable reliefs. (ls) (Entered: 01/30/2024)
02/01/2024	<u>96</u>	ORDER on <u>89</u> Motion for Clarification on Court Forensic Expert Order. Signed by Judge Raag Singhal on 2/1/2024. <i>See attached document for full details.</i> (ls) (Entered: 02/01/2024)
02/02/2024	<u>97</u>	Notice of Interlocutory Appeal as to <u>96</u> Order on Motion for Clarification, <u>86</u> Order on Motion for Leave to File by Rachel Shafer. Filing fee \$ 605.00 receipt number AFLSDC-17262960. Within fourteen days of the filing date of a Notice of Appeal, the appellant must complete the Eleventh Circuit Transcript Order Form regardless of whether transcripts are being ordered [Pursuant to FRAP 10(b)]. For information go to our FLSD website under All Forms and look for Transcript Order Form www.flsd.uscourts.gov/forms/all-forms . (Hecht, Shlomo) (Entered: 02/02/2024)
02/05/2024		Transmission of Notice of Appeal, Orders under appeal, and Docket Sheet to US Court of Appeals re <u>97</u> Notice of Interlocutory Appeal, Notice has been electronically mailed. (apz) (Entered: 02/05/2024)
02/07/2024	<u>98</u>	Acknowledgment of Receipt of NOA from USCA re <u>97</u> Notice of Interlocutory Appeal, filed by Rachel Shafer. Date received by USCA: 2/5/2024. USCA Case Number: 24-10373-A. (apz) (Entered: 02/07/2024)
02/14/2024	<u>99</u>	MOTION to Stay re <u>96</u> Order on Motion for Clarification, <u>86</u> Order on Motion for Leave to File <i>While Appeal is Pending</i> by Rachel Shafer. Responses due by 2/28/2024. (Hecht, Shlomo) (Entered: 02/14/2024)
02/20/2024	<u>100</u>	Plaintiff's MOTION for Contempt <i>against Defendant Rachel Shafer</i> by CHG Medical Staffing, Inc.. Responses due by 3/5/2024. (Attachments: # <u>1</u> Exhibit A - Emails from Forensic Expert, # <u>2</u> Exhibit B - Screenshot, # <u>3</u> Exhibit C - Stipulated Forensic Protocol) (Schwartz, Jennifer). Added MOTION for Sanctions, MOTION to Compel Defendant Rachel Shafer to Comply with the Court's Orders [D.E. 86 and D.E. 96] on 2/21/2024 (ls). (Entered: 02/20/2024)
02/21/2024	<u>101</u>	ORDER denying <u>99</u> Motion to Stay Pending Appeal. Signed by Judge Raag Singhal on 2/21/2024. <i>See attached document for full details.</i> (ls) (Entered: 02/21/2024)
02/21/2024	102	Clerk's Notice to Filer re <u>100</u> Plaintiff's MOTION for Contempt <i>Against Defendant Rachel Shafer, for Entry of Sanctions, and to Compel Defendant Rachel Schafer to Comply with the Courts Order [D.E. 86 and D.E. 96]</i> . Motion with Multiple Reliefs Filed as One Relief ; ERROR - The Filer selected only one relief event and failed to select the additional corresponding events for each relief requested in the motion. The docket entry was corrected by the Clerk. It is not necessary to refile this document but future filings must comply with the instructions in the CM/ECF Attorney User's Manual. (ls) (Entered: 02/21/2024)
02/21/2024	103	PAPERLESS ORDER expediting response to <u>100</u> Plaintiff's Motion for Contempt against Defendant Rachel Shafer. Response is due by 2/23/2024 at 5:00 PM EST. Plaintiff's

		Reply, to the extent it wishes to file one, is due by 2/27/2024 at 5:00 PM EST. Signed by Judge Raag Singhal on 2/21/2024. (jgr) (Entered: 02/21/2024)
02/21/2024		Reset Deadlines as to 100 Plaintiff's MOTION for Contempt <i>against Defendant Rachel Shafer</i> MOTION for Sanctions MOTION to Compel Defendant Rachel Shafer to Comply with the Court's Orders [D.E. 86 and D.E. 96]. Responses due by 2/23/2024. Replies due by 2/27/2024. (ls)(per DE #103) (Entered: 02/21/2024)
02/23/2024	104	RESPONSE in Opposition re 100 Plaintiff's MOTION for Contempt <i>against Defendant Rachel Shafer</i> MOTION for Sanctions MOTION to Compel Defendant Rachel Shafer to Comply with the Court's Orders [D.E. 86 and D.E. 96] filed by Rachel Shafer. Replies due by 3/1/2024. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K)(Hecht, Shlomo) (Entered: 02/23/2024)
02/26/2024	105	TRANSCRIPT INFORMATION FORM by Rachel Shafer re 97 Notice of Interlocutory Appeal,, No Transcript Requested. (Hecht, Shlomo) (Entered: 02/26/2024)
02/27/2024	106	Plaintiff's REPLY to Response to Motion re 100 Plaintiff's MOTION for Contempt <i>against Defendant Rachel Shafer</i> MOTION for Sanctions MOTION to Compel Defendant Rachel Shafer to Comply with the Court's Orders [D.E. 86 and D.E. 96] filed by CHG Medical Staffing, Inc.. (Schwartz, Jennifer) (Entered: 02/27/2024)
03/29/2024	107	Pursuant to 11th Cir. R. 11-2 and 11th Cir. R. 11-3, the Clerk of the District Court for the Southern District of Florida certifies that the record is complete for purposes of this appeal re: 97 Notice of Interlocutory Appeal, Appeal No. 24-10373-AA. The entire record on appeal is available electronically. (apz) (Entered: 03/29/2024)

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DE 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

CHG MEDICAL STAFFING, INC.
d/b/a RNNETWORK, a Delaware
Corporation,

Plaintiffs,

v.

RACHEL SHAFER, an individual,
LISLEY ROSSI, an individual,
AHS STAFFING, LLC, an Oklahoma Limited
Liability Company,

Defendants. _____ /

VERIFIED COMPLAINT

Plaintiff, CHG Medical Staffing, Inc. d/b/a RNNetwork (hereafter “RNN”), by and through the undersigned counsel, hereby files this Verified Complaint against Defendants, Rachel Shafer (“Shafer”), Lislely Rossi (“Rossi”), (Shafer and Rossi collectively, the “Individual Defendants”), and AHS Staffing, LLC (“AHS”) (collectively, “Defendants”) for temporary and permanent injunctive relief and damages based on breach of contract; violations of the Defend Trade Secrets Act (“DTSA”), 18 U.S.C. § 1836; violations of the Florida Uniform Trade Secrets Act (“FUTSA”) Fla. Stat. § 688.001 *et seq.*; conversion; breach of fiduciary duty; civil conspiracy; and tortious interference with contractual and business relationships and in support thereof states as follows:

JURISDICTION AND VENUE

1. RNN is a Delaware corporation and, at all times material, was registered to do business in the State of Florida and was doing business in Broward County, Florida.

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2. Defendant AHS is an Oklahoma limited liability company, and at all times material, was registered and doing business in the State of Florida, engaged in substantial activity within the state of Florida, and continues to do so.

3. Upon information and belief, Defendant Shafer is, and at all times material hereto was, an individual residing in Broward County, Florida.

4. Upon information and belief, Defendant Rossi is, and at all times material hereto was, an individual residing in Broward County, Florida.

5. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331 because this action raises claims under the Federal Defend Trade Secrets Act, 18 U.S.C. § 1836(c). This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 because they arise out of the same operative facts as its federal claims.

6. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

7. Personal jurisdiction is proper in Florida because Defendants Shafer and Rossi are citizens of and reside in Florida and, at all times material hereto, AHS operated, conducted, engaged in, and carried on a business or business venture in the State of Florida. Moreover, personal jurisdiction is proper over all Defendants because the Individual Defendants breached their contracts in Broward County, Florida, and AHS and Shafer tortiously interfered with those contracts in Broward County, Florida.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) because the Individual Defendants reside in this district and the events or omissions giving rise to the claims against all Defendants occurred and continue to occur in this district.

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9. All conditions precedent to bringing this action have occurred, have been satisfied, or have otherwise been waived.

BACKGROUND FACTS
RNN's Business

10. RNN is a nurse staffing and recruiting agency in the business of national recruiting, staffing and placing of travel nurses with healthcare facilities (*i.e.*, hospitals, clinics, medical practices, long-term care facilities) on a permanent and/or temporary basis, nationwide.

11. The nurse staffing industry is a highly competitive industry with numerous major participants nationwide, all of which compete with RNN in some or all aspects of its business.

12. RNN employs recruiters whose primary job duties are to identify nurses looking for an employment opportunity, developing relationships with those nurses so that they can make repeat placements over many years, particularly for temporary travel nurse positions, assembling names and information related to the nurses with whom they speak into a database (whether interested in an opportunity at the present or whether they are a future prospect), and then drawing from the nurses in the database to fill open positions at healthcare facilities. Then, when a staffing need arises at a healthcare facility, either an RNN recruiter will learn of it through his/her relationships with the facility or the facility will notify RNN and competitor staffing companies of the particular need it may have for a nursing placement.

13. Upon receipt of a notice that a healthcare facility has a particular staffing need, RNN and its competitor staffing companies seek to recruit an appropriate candidate for the position from their databases of qualified nursing professionals or through the development of new relationships with interested nursing professionals.

14. RNN and its competitors will then present qualified candidates to the requesting facility and will compete with other staffing companies to persuade the facility to accept the

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candidate that it is presenting rather than candidates presented by its competitors. A staffing company is generally only compensated by a facility upon a decision to accept a candidate presented to it by that staffing company.

15. The value RNN provides to its nurses depends on its network of relationships and its goodwill. RNN's reputation, course of dealing, and history with facilities can lead to a level of trust and confidence in RNN, which renders a facility more likely to hire a candidate presented to it. This goodwill is developed not only through assurance that only highly qualified and skilled professionals are presented for consideration, but also based upon the relationships developed over the course of time between facilities and RNN personnel with whom they interact on a regular basis.

16. RNN's goodwill with its nurses is just as important and valuable. Nurses often have many choices of staffing agencies through whom they may seek work opportunities.

17. It is important that the nurse professionals develop a level of trust and confidence in RNN through their interactions with RNN's personnel so that they know they will not be contacted for positions in geographic locations which are unacceptable, for positions for which they are not qualified or outside their expertise, or for positions where the compensation is simply not adequate.

18. Because several candidates may be presented for any particular open position by any number of staffing agencies, it is common that a nurse professional may not be selected for the first position for which they are presented. RNN will, however, retain that candidate's information and maintain a relationship with those professionals in the event another, perhaps more suitable opportunity arises in the future. It is important to RNN that its employees maintain

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positive, long-term relationships with its nurse professionals and that the nurses remain affiliated with and willing to consider positions proposed by RNN.

19. Shafer and Rossi, both former employees of RNN, had frequent contact with the nurse professionals with whom RNN has developed relationships, many of whom had been placed before in multiple temporary staffing positions through RNN over the course of many years. Among other duties, Shafer and Rossi were responsible for maintaining RNN's relationships with nurse professionals and ensuring that RNN has a substantial database of interested and willing professionals from which to recruit upon notification of an employment opportunity by one of the facilities with which RNN contracts.

20. RNN has expended substantial amounts of time, money, and effort to develop its recruiters, like Shafer and Rossi, as well as its trade secrets and/or valuable confidential business information provided to its recruiters, to enable them to perform their jobs. This includes compiled, detailed information regarding its nurse professionals developed over time with input from numerous different recruiters. RNN derives independent economic value from this information not being generally known or readily ascertainable by proper means by others who can obtain economic value from its disclosure or use.

21. In order to stay competitive in the industry, RNN has, over the course of more than a decade, developed a secure database comprised of confidential and proprietary information, including, among other things, facility client and nurse provider lists; nurse contact and assignment information; client and nurse preferences; spreadsheets updated by numerous recruiters noting nurse preferences (e.g., the states they want to work in, preferred days, hours and rates), business strategies and models; pricing information; market research and analysis; leadership training,

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coaching and other employee development programs and methods; and cost control strategies (the “Confidential Information and Trade Secrets”).

22. The majority of RNN’s Confidential Information and Trade Secrets is housed in Bullhorn, a cloud based computing and storage company that provides customer relation management, application tracking systems, and operations software to the staffing industry. RNN also keeps its Confidential Information and Trade Secrets on its secure SharePoint server, which is only accessible through authorized credentials.

23. RNN has taken affirmative steps to preserve the secrecy of its Confidential Information and Trade Secrets.

24. It employs an IT Department and sophisticated, passcode protected software programs to store, protect and track the flow of its data. Further, RNN has implemented additional protective services from Okta, Inc., an identity and access management software company, to secure user authentication into RNN’s applications, website services, email, and devices. RNN periodically reviews the access given to its employees to ensure that only current RNN employees have access to its secure network and to immediately terminate an employee’s access and credentials upon a termination of employment.

25. Additionally, RNN mandates that its employees execute non-competition, non-solicitation and confidentiality agreements as a condition precedent to employment and to being granted access to its Confidential Information and Trade Secrets.

26. RNN promulgates policies expressly notifying its employees of the confidential nature of its information and prohibiting employees from copying, removing, using, or disclosing RNN’s confidential information to anyone outside of the Company.

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27. RNN's physical facilities are locked at all times and require the use of a trackable keycard for access.

Shafer's Employment with RNN

28. On or about July 26, 2012, RNN hired Shafer for the position of Recruiter and later promoted her to the position of Senior Healthcare Recruiter.

29. As a Senior Healthcare Recruiter, Shafer was responsible for developing relationships with nurses and placing them on temporary assignments with healthcare facilities.

30. Through her employment with RNN, Shafer had direct and frequent contact with RNN's nursing clients in all aspects of recruiting, staffing, credentialing, licensing, and hiring.

31. Shafer was responsible for, among other duties, identifying nurse client prospects for job opportunities, developing and maintaining RNN's relationships with nurse clients and assuring that RNN has a substantial database of interested and willing nurses from which to recruit upon notification of an employment opportunity by one of the facilities with which RNN contracts.

32. Throughout Shafer's employment, RNN expended substantial amounts of time, money, and effort to develop and train Shafer, who had no experience in recruiting prior to her hire at RNN.

33. Throughout her employment, Shafer was educated and trained by RNN on the ways in which it conducts recruiting and staffing services for travel nurses, as well as permanent placements, as requested.

34. During her nearly 11 years of employment with RNN, Shafer gained knowledge of trade secrets and other confidential and proprietary information of RNN, including, but not limited to, information relating to current, former and prospective nurse and facility clients; nurse preferences (e.g., locations, hours, types of work, rates and fees) learned over time and developed

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through relationships that enabled her to make placements faster than RNN's competitors; assignment information so she was aware of when certain contracts would end and when certain nurses would be looking and available for another opportunity; strategies for competitive credentialing of nurses; and financial information relating to the business of RNN.

35. By virtue of her employment with RNN, Shafer was provided the education and training to perform her role and granted access to RNN's trade secrets and confidential and proprietary information, including *client lists*, nurse contact and preference information, nurse assignment and contract information, spreadsheets updated by numerous employees noting nurse preferences, rates, gross margin and profit information and contract dates, business strategies and models, pricing information, market research and analysis, and cost control strategies. Shafer utilized the training, knowledge, and skills she received from RNN, as well as her access to RNN's confidential and proprietary information, to cultivate, develop and maintain relationships with RNN's clients and physicians.

36. Shafer was a successful recruiter at RNN. For years, she was one of the top producers making a high number of placements. In 2022, she generated over \$6,000,000 in gross margins (profit minus costs), placing her the top third recruiter in the company.

37. Shafer was also one of the highest paid recruiters at RNN. In 2022, RNN paid Shafer in excess of \$615,411 in salary and commissions.

38. As Shafer's success grew, she began taking liberties with RNN's procedures, selectively deciding when she would comply with them and when they were inconvenient, she increasingly violated Company rules, procedures and protocols to make placements, became insubordinate to leaders, was disrespectful to co-workers, and created significant discord within

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RNN's operations, which did not improve despite coaching, counseling, and a number of Performance Improvement Plans ("PIP").

39. On February 17, 2023, Shafer was issued a final PIP based on her behavior and ongoing failure to follow company processes and procedures.

40. More than seven weeks after she was issued the 2023 PIP, Shafer's performance did not improve and complaints about her aggressive and disrespectful behavior continued to be reported.

41. Ultimately, RNN terminated Shafer's employment, effective March 30, 2023.

**Shafer's Confidentiality, Non-Competition and No-Solicitation
Agreement with RNN**

42. As an express condition of her employment with RNN, Shafer entered into an Employment Agreement Including Confidentiality, Non-Competition and Non-Solicitation Provisions with RNN on July 26, 2012 (the "Shafer Agreement"). *See* Shafer Agreement attached hereto as **Exhibit A**.

43. The Shafer Agreement contains, *inter alia*, the following provisions which describe Shafer's obligations to protect RNN's confidential and proprietary business and trade secret information ("Confidential Business Information"), including client lists she compiled, supplemented, maintained and used, both during and after her employment with RNN:

Duty of Confidentiality

(a) Employee covenants and agrees to not, at any time or in any manner, use any of the Confidential Business Information for any purpose other than as reasonably necessary in the performance of Employee's duties for [RNN] and for the exclusive benefit of [RNN]. Employee shall not at any time, both during and after employment with [RNN] (regardless of the manner or reason of termination or cessation of employment with [RNN]), or in any form or manner, either directly or indirectly, copy, disseminate, divulge, disclose, transfer or communicate any Confidential Business Information to

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any other employee or to any other person or entity except as reasonably necessary in the performance of Employee's duties for [RNN].

(b) Employee agrees that all Confidential Business Information is the sole and exclusive property of [RNN]. Employee further agrees that all files, documents, works, papers, electronic files and information and other materials containing any Confidential Business Information or information which Employee prepares, uses, possesses or controls that affects or relates to the business of [RNN] are the sole property of [RNN]. Employee agrees to take all steps necessary, and all steps requested by [RNN], to ensure that the Confidential Business Information is kept confidential and to comply with all applicable policies and procedures of [RNN] regarding the use, disclosure, maintenance and security of the Confidential Business Information.

(c) Upon the termination of Employee's employment with [RNN] (regardless of the manner or reason of termination), **Employee shall immediately return to [RNN] all Confidential Business Information, [RNN] assets, and other information and property obtained from or relating to [RNN] or to which Employee has access, in good condition, normal wear and tear excepted, and shall not retain any copies thereof**, whether in hard copy or electronic form.

See Exh. A ¶ 4 (emphasis added).

44. Shafer also agreed she would not compete with RNN for a period of twelve (12) months after her employment ended to, among other reasons, enable the Company to have a new recruiter establish relationships with the nurses with whom she worked following her departure:

Non-Competition Agreement. Employee agrees that, beginning on the Effective Date and continuing for one (1) year from the later of (i) the date Employee's employment with the Company is terminated or otherwise ceases (regardless of the manner or reason of termination or cessation) or (ii) the latest date on which Employee breaches any of the provisions of Sections 4, 5, 6, or 7 hereof (the later one-year period being referred to as the "Covenant Period"), Employee shall not, anywhere in the United States, directly or indirectly, individually or jointly, whether as an . . . employee, agent, independent contractor, advisor, consultant . . . be employed by or otherwise render services to any person or entity that is engaged in or competes with the type(s) of staffing that Employee was engaged in at any time during Employee's last three (3) years of employment with the Company. The Company and Employee agree that for purposes of this Section 5, the "types" of staffing the Company engages in include, without limitation, physician staffing, nurse staffing, allied staffing and such other segment of staffing engaged in by the Company in the future. Employee

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further agrees and understands that regardless of the type(s) of staffing engaged in by Employee during Employee's last three years of employment with the Company, this restriction applies to both temporary (including "locum tenens") and permanent staffing within such type(s) of staffing . . . By way of further example, if Employee worked in, supported, managed or otherwise engaged in, in any capacity, physician staffing and nurse staffing at any time during Employee's last three years of employment with [RNN], Employee agrees not to work in, support or manage or otherwise engage in, in any capacity, physician and nurse staffing on a permanent or temporary basis during the Covenant Period. Employee acknowledges that because of Employee's access to [RNN]'s Confidential Business Information, and because of the nationwide nature of the Business, a violation of this covenant will cause irreparable injury to the Company.

Id., ¶ 5.

45. Shafer further agreed that for a period of twelve months following her last date of employment with RNN, she would not:

in any manner, either directly or indirectly, for Employee's own behalf or for or on behalf of any other person or entity (other than the Company), **solicit, recruit, offer or otherwise provide services, or attempt to solicit, recruit, offer or otherwise provide services, that are the same as or similar to the Business to any current, former or prospective Healthcare Personnel or Clients of the Company with whom Employee worked with or serviced**, communicated with, had contact in any manner, or otherwise was aware of during Employee's last three (3) years of employment with the Company. Employee further agrees that, during the Covenant Period, **Employee shall not, in any manner, either directly or indirectly, induce, encourage, solicit or cause, or attempt to induce, encourage, solicit or cause Healthcare Personnel or Clients to cease doing business with, or otherwise change or diminish the Healthcare Personnel or Clients' business with, the Company.**

Id., ¶ 6 (emphasis added).

46. The restraints on disclosure, competition and solicitation specified in the Shafer Agreement are reasonably necessary to protect the legitimate business interests of RNN including, but not limited to, its: (1) trade secrets; (2) valuable confidential business or professional information; (3) substantial relationships with specific existing clients and nurse professionals; (4)

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client and nurse professional goodwill within RNN's specific geographic market area; and (5) the investment in education and training of an employee.

47. On the day of her termination, March 30, 2023, Shafer was provided with a Separation Letter reminding her of her non-compete, non-solicit and confidentiality obligations under the Agreement she signed and providing her with another copy of the Agreement. *See* March 30, 2023 letter **at Exhibit B**.

Rossi's Employment with RNN

48. In 2014, Rossi began working as a recruiter, and later a senior recruiter, at RNN responsible for placing travel nurses in positions at client healthcare facilities throughout the United States.

49. On January 1, 2023, Rossi was promoted to leadership and became responsible for managing a team of recruiters and assisting them in making placements of travel nurses throughout the nation. As part of her new role, Rossi received numerous leads of nurses interested in travel positions, and she was responsible for passing those leads onto her team of recruiters so that her team would be successful.

50. Within months of her promotion, Rossi decided she did not enjoy managing other recruiters and requested to move back to a senior recruiting job. She returned to a recruiter position on April 1, 2023.

51. Rossi was a successful recruiter at RNN. For years, she was one of the top producers making a high number of placements. Indeed, in 2022, Rossi generated over \$2,000,000 in gross margins, placing her at the top 20% of recruiters at RNN.

52. Rossi was paid more than \$200,000 in salary and commissions in 2022.

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53. Throughout Rossi's employment, RNN expended substantial amounts of time, money and effort to develop and train Rossi, who had no experience in recruiting prior to her hire at RNN.

54. Throughout her employment, Rossi was educated and trained by RNN on the ways in which it conducts recruiting and staffing services for travel nurses, as well as permanent placements when requested.

55. During her 8 years of employment with RNN, Rossi gained knowledge of trade secrets and other confidential and proprietary information of RNN, including, but not limited to, information relating to current, former and prospective nurse and facility clients; nurse preferences (e.g., locations, hours, types of work, rates and fees) learned over time and developed through relationships that enabled her to make placements faster than RNN's competitors; assignment information so she was aware of when certain contracts would end and when certain nurses would be looking and available for another opportunity; strategies for competitive credentialing of nurses; and financial information relating to the business of RNN.

56. By virtue of her employment with RNN, Shafer was provided the education and training to perform her role and granted access to RNN's trade secrets and confidential and proprietary information, including *client lists*, nurse contact and preference information, nurse assignment and contract information, spreadsheets updated by numerous employees noting nurse preferences, rates, gross margin and profit information and contract dates, business strategies and models, pricing information, market research and analysis, and cost control strategies. Rossi utilized the training, knowledge, and skills she received from RNN, as well as her access to RNN's confidential and proprietary information, to cultivate, develop and maintain relationships with RNN's clients and physicians.

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57. In April 2023, shortly after her return to a senior recruiter position, RNN discovered that Rossi had engaged in acts of dishonesty. Specifically, Rossi had edited information in RNN's Bullhorn server to take credit for other recruiters' placements, causing her or attempting to cause her to receive commission she did not earn. When confronted with this finding, Rossi admitted to her misconduct.

58. Consequently, on April 27, 2023, RNN informed Rossi that her employment with was terminated.

**Rossi's Confidentiality, Non-Competition and No-Solicitation
Agreement with RNN**

59. As an express condition of her employment with RNN, Rossi entered into an Employment Agreement Including Confidentiality, Non-Competition and Non-Solicitation for Employees with RNN (the "Rossi Agreement"). *See* Rossi Employment Agreement is attached as **Exhibit C**.

60. The Rossi Agreement contains, *inter alia*, the following provisions which describe Rossi's obligations to protect RNN's confidential and proprietary business and trade secret information ("Confidential Business Information"), including facility and nurse client lists she compiled, supplemented, maintained and used, both during and after her employment with RNN:

Duty of Confidentiality

(a) Employee covenants and agrees to not, at any time or in any manner, use any of the Confidential Business Information for any purpose other than as reasonably necessary in the performance of Employee's duties for [RNN] and for the exclusive benefit of [RNN]. Employee shall not at any time, both during and after employment with [RNN] (regardless of the manner or reason of termination or cessation of employment with [RNN]), or in any form or manner, either directly or indirectly, copy, disseminate, divulge, disclose, transfer or communicate any Confidential Business Information to any other employee or to any other person or entity except as reasonably necessary in the performance of Employee's duties for [RNN].

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(b) Employee agrees that all Confidential Business Information is the sole and exclusive property of [RNN]. Employee further agrees that all files, documents, works, papers, electronic files and information and other materials containing any Confidential Business Information or information which Employee prepares, uses, possesses or controls that affects or relates to the business of [RNN] are the sole property of [RNN]. Employee agrees to take all steps necessary, and all steps requested by [RNN], to ensure that the Confidential Business Information is kept confidential and to comply with all applicable policies and procedures of [RNN] regarding the use, disclosure, maintenance and security of the Confidential Business Information.

(c) Upon the termination of Employee's employment with [RNN] (regardless of the manner or reason of termination), **Employee shall immediately return to [RNN] all Confidential Business Information, [RNN] assets, and other information and property obtained from or relating to [RNN] or to which Employee has access, in good condition, normal wear and tear excepted, and shall not retain any copies thereof**, whether in hard copy or electronic form.

See Exh. C, ¶ 4 (emphasis added).

61. Rossi also agreed she would not compete with RNN for a period of twelve (12) months after her employment ended to, among other reasons, enable the Company to have a new recruiter establish relationships with the nurses with whom she worked following her departure:

62. **Non-Competition Agreement.** Employee agrees that, beginning on the Effective Date and continuing for one (1) year from the later of (i) the date Employee's employment with the Company is terminated or otherwise ceases (regardless of the manner or reason of termination or cessation) or (ii) the latest date on which Employee breaches any of the provisions of Sections 4, 5, 6, or 7 hereof (the later one-year period being referred to as the "Covenant Period"), Employee shall not, anywhere in the United States, directly or indirectly, individually or jointly, whether as an . . . employee, agent, independent contractor, advisor, consultant . . . advise or assist others with, be employed by or otherwise render services to any person or entity that is engaged in or competes with the type(s) of staffing that Employee was engaged in at any time during Employee's last three (3) years of employment with the Company. The Company and Employee agree that for purposes of this Section 5, the "types" of staffing the Company engages in include, without limitation, physician staffing, nurse staffing, allied staffing and such other segment of staffing engaged in by the Company in the future. Employee further agrees and understands that regardless of the type(s) of staffing engaged in by Employee during Employee's last three years of employment with the Company, this restriction applies to both temporary

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(including “locum tenens”) and permanent staffing within such type(s) of staffing . . . By way of further example, if Employee worked in, supported, managed or otherwise engaged in, in any capacity, physician staffing and nurse staffing at any time during Employee’s last three years of employment with the Company, Employee agrees not to work in, support or manage or otherwise engage in, in any capacity, physician and nurse staffing on a permanent or temporary basis during the Covenant Period. Employee acknowledges that because of Employee’s access to the Company’s Confidential Business Information, and because of the nationwide nature of the Business, a violation of this covenant will cause irreparable injury to the Company.

Id., ¶ 5.

63. Rossi further agreed that for a period of twelve months following her last date of employment with RNN, she would not:

in any manner, either directly or indirectly, for Employee’s own behalf or for or on behalf of any other person or entity (other than the Company), **solicit, recruit, offer or otherwise provide services, or attempt to solicit, recruit, offer or otherwise provide services, that are the same as or similar to the Business to any current, former or prospective Healthcare Personnel or Clients of the Company with whom Employee worked with or serviced**, communicated with, had contact in any manner, or otherwise was aware of during Employee’s last three (3) years of employment with the Company. Employee further agrees that, during the Covenant Period, **Employee shall not, in any manner, either directly or indirectly, induce, encourage, solicit or cause, or attempt to induce, encourage, solicit or cause Healthcare Personnel or Clients to cease doing business with, or otherwise change or diminish the Healthcare Personnel or Clients’ business with, the Company.**

Id., ¶ 6 (emphasis added).

64. The restraints on disclosure, competition and solicitation specified in the Rossi Agreement are reasonably necessary to protect the legitimate business interests of RNN.

65. Specifically, RNN’s legitimate business interests include, but are not limited to, its: (1) trade secrets; (2) valuable confidential business or professional information; (3) substantial relationships with specific existing facility and nurse clients; (4) client goodwill within RNN’s specific geographic market area; and (5) the investment in education and training of an employee.

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66. On the day of her termination, April 27, 2023, Rossi was provided with a Separation Letter reminding her of her non-compete, non-solicit and confidentiality obligations under the Agreement she signed and providing her with another copy of the Agreement. *See* April 27, 2023 letter as **Exhibit D**. Despite RNN's repeated requests, Rossi has refused to return her RNN issued laptop computer, which still remains in her possession as of the filing of this Complaint.

AHS's Business

67. Like CHG Medical Staffing, Inc., AHS is a healthcare staffing company that places travel nurses, as well as other healthcare professionals, in temporary and permanent positions with healthcare facilities throughout the United States.

68. AHS is engaged in the same business of RNN (temporary placement of nurses with healthcare facilities throughout the country), competes for the same nursing clients as RNN, competes for the same healthcare facility clients, and is in all respects a direct competitor of RNN.

69. AHS advertises on its website that it is a "Top 10 travel nurse staffing agency," and its claimed mission is to "help nurses find top-paying travel assignments that match their personal and career ambitions. We go above and beyond to help [nurses] find [their] dream job. *See* Screenshot of AHS's website attached hereto as **Exhibit E**.

Shafer's Violation of Her Agreements With RNN

70. Within weeks of her termination from RNN, during the 12-month restricted period, Shafer accepted a job with AHS as a Senior Healthcare Recruiter.

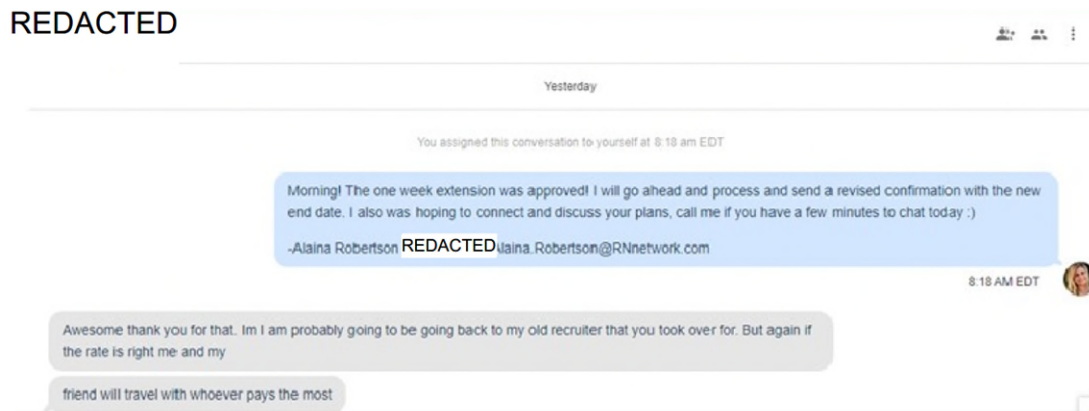
71. Shafer is performing the exact same job duties at AHS that she performed during her employment with RNN – recruiting travel nurses for temporary and permanent placement at healthcare facilities throughout the United States.

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72. Shafer's employment with AHS is a direct violation of her Agreement, as she is directly competing with RNN to recruit existing and potential nursing clients for placement at AHS.

73. Shortly after Shafer's employment was terminated, a number of RNN nurses abruptly ceased doing business with RNN, several expressly stating they were choosing to follow Shafer at her new employer.

74. For example, on July 14, 2023, Alaina Robertson, an RNN recruiter, reached out to H. H.,¹ a provider with whom RNN does business, regarding a potential placement. H. H. told Ms. Robertson that she is going back to her "old recruiter," who is Shafer:



See July 14, 2023 text message attached hereto as **Exhibit F**.

75. Shafer also brazenly contacted a current RNN recruiter asking for information concerning a RNN nursing client for the clear purpose of planning to solicit and/or place her.

76. Between July and August 2023, RNN became aware of a handful of instances in which it appeared that Shafer was soliciting RNN's nurse clients, and RNN began to suspect that

¹ In order to protect the identities of the non-party nurses listed throughout this Complaint, RNN provides only the initials of the nurse's first and last names.

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Shafer improperly retained RNN's Confidential Information and Trade Secrets in violation of her Agreement.

77. RNN's suspicions were confirmed when an anonymous caller from AHS contacted RNN to report various unethical business practices Shafer was committing in concert with AHS.

78. The anonymous caller informed RNN that:

- a. Shafer induced several nurses to terminate their placement secured by Shafer while she worked at RNN and to seek a new placement through Shafer at AHS. Some of these providers included, without limitation: S. S., T. M., M. R., D. C. N. V., J. N., A. M., M. D., and S. L.
- b. Shafer has added historical information about a number of RNN nurse providers into the AHS database, information regarding contract rates, dates, placement locations and facilities, which could not be known absent a misappropriation of RNN's confidential information.
- c. Within a couple of months of her joining AHS, Shafer solicited and placed 43 nurses with whom she was working and doing business at RNN, 8 of whom are already on active assignment.
- d. Shafer has 80 nurse candidate submissions per week, presumably because she is using information, she retained from RNN.
- e. Shafer is being praised by AHS's management for the volume of business she is bringing into AHS, despite clear evidence that she is using RNN's Confidential Information and Trade Secrets to solicit RNN's nursing clients.

79. After being put on notice that Shafer was likely using RNN's Confidential Information and Trade Secrets, and that Shafer's post-employment solicitation went far beyond

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just a handful of isolated instances, RNN commenced an investigation of Shafer's activities in the weeks leading up to what she knew was likely going to be her termination (based on the final PIP she was issued and prior disciplinary discussions about her failure to improve her behavior).

80. RNN's investigation revealed that in early March 2023, after Shafer was placed on her final PIP and became aware that her continued employment at RNN was in serious jeopardy, Shafer emailed numerous documents from her RNN secure Outlook email account to her personal Gmail account.

81. These documents, taken and generated from RNN's secure Bullhorn and SharePoint servers, contain significant company trade secrets belonging to RNN which would give any competitor, such as AHS, an unfair competitive advantage in the industry and which can be, and apparently has been, used to undermine RNN.

82. For example, Shafer emailed to her personal Gmail account numerous Working and Awaiting ("WA") spreadsheets containing information pertaining to over 2000 nurses, such as their names, email addresses, specialties (*e.g.*, RN-Pediatric ICU or Surgical or Emergency Room), date of their current placement, the state and location of their current placement, their shifts and hours per shift, the facility client where each nurse is working, bill rates, gross margins for each separate nurse placed, assignment end dates and durations, provider contact information, whether the contract was new, renewed or extended, and other information which would make it very easy for a staffing agency like AHS to solicit these providers from RNN.

83. Shafer also emailed to her personal Gmail account Gross Margin Detail ("GM") spreadsheets which show confidential profit margin information on an individual nurse basis, as well as confidential information regarding each nurse's assignment, duration, rates, and assignment expiration dates.

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84. The information contained in the GM and WA spreadsheets reveal not only where a nurse is placed, the nurse's compensation, RNN's profit and margin details per each nurse, and when a nurse's assignment is set to end, but all of this information is contained in a well-organized, distilled and easily searchable Excel spreadsheet which would help a recruiter to make a quick placement when an opportunity arises. Effectively, this information gives a recruiter confidential and proprietary, trade secret information with respect to every area of a nursing client's employment, the time frame in which the nurse will be seeking a subsequent assignment, and how to get in contact with the nurse (as well as the nurse's location, hours, shifts and compensation preferences) to convey a new opportunity.

85. Shafer intentionally stole this information from RNN with the intent of using it in a competing capacity, knowing her employment was about to end, either voluntarily or involuntarily. This is clear from the fact that on March 9, 2023, Shafer began emailing herself nurse recruiter job postings from competing nurse recruiting agencies, such as Aya Healthcare, along with her updated resume. She forwarded these emails from her RNN email account to her personal Gmail account on that day, in addition to numerous RNN documents containing the Company's confidential and trade secret information, which she could then take with her to her new nurse recruiting job.

86. On March 23, 2023, Shafer forwarded from her RNN email account to her personal Gmail account two emails containing information she exported off of RNN's secure servers entitled "CONFIDENTIAL – FEBRUARY COMMISSION DETAIL SHEET." The emails contain five documents converted from an Excel spreadsheet identifying Gross Margin Details for numerous nurse providers, the healthcare facility client where they were working, their start and

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end dates of their contracts, the number of days billed, compensation paid, total revenue, provider compensation, RNN's financial margins per nurse, and more.

87. The confidential, trade secret information in the documents Shafer stole are extremely valuable to RNN, and in the hands of a competitor like AHS, provide all the information needed to divert RNN's nursing clients to AHS.

88. Upon information and belief, Shafer has used and/or disclosed and continues to use and/or disclose the confidential, proprietary information and trade secrets she stole from RNN in the course of her new business activities, for the benefit of herself and for AHS.

Rossi's Violations of Her Agreement With RNN

89. Within weeks of her April 27, 2023 termination from RNN, Rossi accepted a job with AHS as a nurse recruiter. Upon information and belief, Rossi became aware that AHS would employ her, notwithstanding her non-compete agreement with RNN, because Shafer reached out to notify her of the opportunity after learning of Rossi's termination.

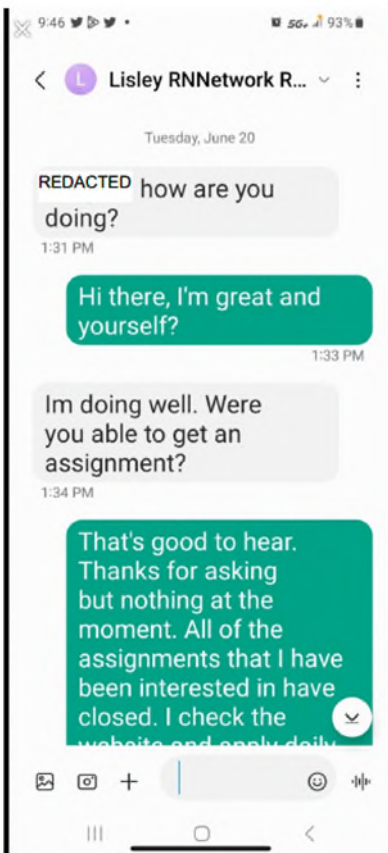
90. As a nurse recruiter at AHS, Rossi recruits and places travel nurses in temporary and permanent roles at health care facilities throughout the United States – the identical job duties she performed for RNN.

91. Rossi's employment with AHS within the 12-month non-compete period constitutes a direct violation of her Agreement. *See* Exh. C.

92. RNN learned of Rossi's breach of her Agreement from RNN's nurse providers who Rossi reached out to while attempting to solicit them from RNN to place them through AHS.

93. For example, in June 2023, Rossi initiated a conversation with S.G., a nurse working with RNN, about available positions:

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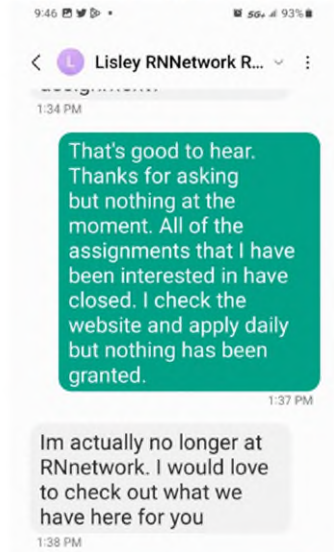
See June 20, 2023, text message attached hereto as **Exhibit G**.

94. S.G.'s information initially came to RNN as a lead, so she had not worked directly with Rossi at RNN. Rossi had S.G.'s information because leads for her team went directly to Rossi during the brief time she was in management, just prior to her termination.

95. Rossi informed S.G. that she did not work at RNN and attempted to find an available position for her through AHS:

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REDACTED

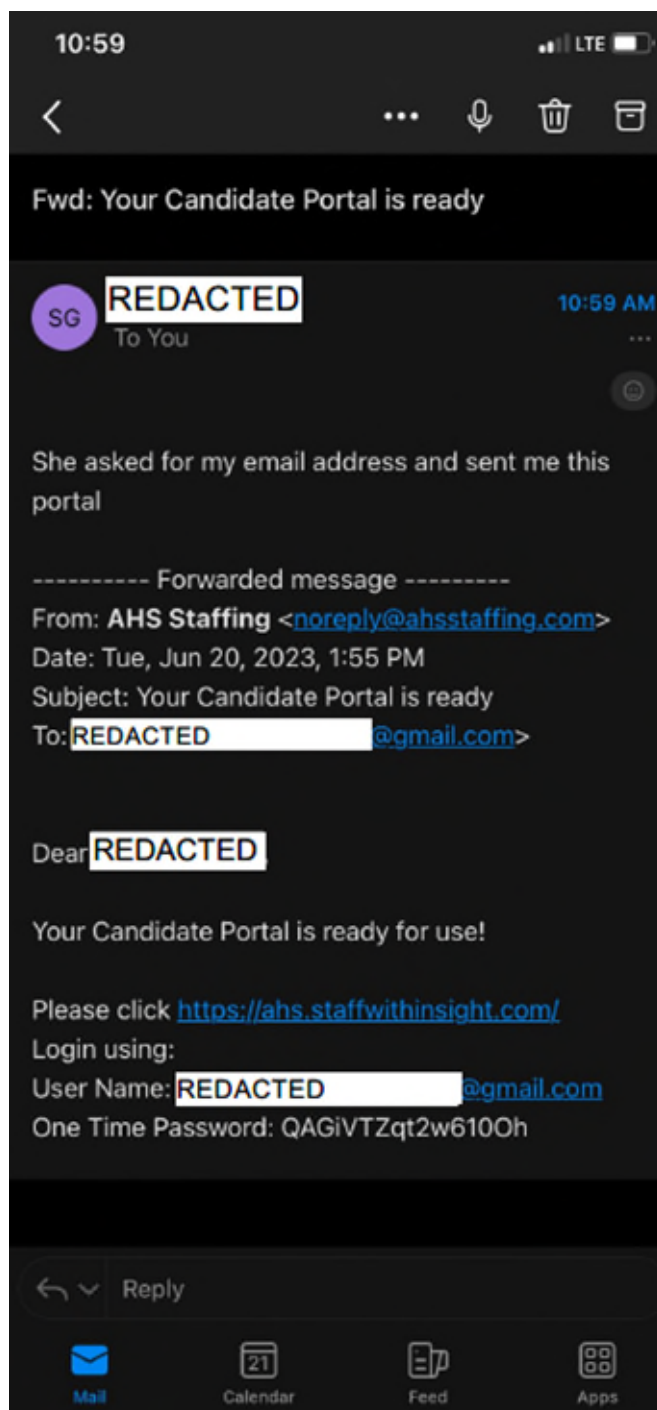


REDACTED

See id.

96. Rossi then sent S.G. a link to AHS's candidate portal for S.G. to set up a provider account through AHS:

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See Email dated June 20 attached hereto as **Exhibit H**.

97. S.G. then notified RNN of Rossi's attempts to poach her to be a client of AHS.

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98. Upon information and belief, Rossi could not have been aware of S.G.'s existence, placement status, or contact information absent Rossi taking confidential client contact information from RNN.

99. Upon information and belief, Rossi misappropriated client contact information belonging to numerous RNN nurses – not just S.G. – and has solicited other RNN nursing clients, in violation of her non-competition and non-solicitation Agreement using the information she stole.

100. Upon information and belief, Rossi has used and/or disclosed and continues to use and/or disclose the confidential, proprietary information and trade secrets she stole from RNN in the course of her new business activities, for the benefit of herself and for AHS.

101. If divulged to a competitor, such as AHS, the trade secrets could be and likely already have been used to lure away RNN's clients, undermine RNN's marketing efforts, and damage its competitive standing in the industry.

AHS's Tortious Interference With The Shafer and Rossi Agreements

102. On July 14, 2023, RNN sent a letter to Shafer demanding that she cease and desist breaching her Agreement and using RNN's Confidential Information and Trade Secrets that she took from RNN and demanding that she immediately return all such information. *See* July 14, 2023, Letter to Shafer attached hereto as **Exhibit I**.

103. Shafer, through her attorney, responded with a blatant denial of her misconduct and refusal to comply with her Agreement.

104. On July 14, 2023, RNN also sent a letter to Rossi demanding that she cease and desist breaching her Agreement and using RNN's Confidential Information and Trade Secrets that

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she took from RNN and demanding that she immediately return all such information. *See* June 14, 2023, Letter to Rossi attached hereto as **Exhibit J**.

105. Rossi failed to respond to RNN's letter.

106. Based on the "Notice to Subsequent Employer" provisions in their Agreements expressly permitting RNN to provide a copy of their Agreements to their subsequent employers, and based on their responses (or lack thereof) to the cease and desist letters, on July 26, 2023, RNN sent a letter to AHS notifying it of the Shafer and Rossi Agreements and requesting that it (i) refrain from enabling Shafer and Rossi to violate their Agreements, (ii) cease from using any Confidential Information and Trade Secrets misappropriated from RNN, and (iii) requesting that AHS immediately return RNN's information. *See* July 26, 2023, Letter to AHS attached hereto as **Exhibit K**.

107. On July 31, 2023, AHS's in-house counsel sent a brief response to the letter asserting, without explanation, that the Shafer and Rossi Agreements are unenforceable and that it allegedly does not possess any of RNN's Confidential Information and Trade Secrets, despite evidence to the contrary *See* July 31, 2023 Letter to RNN attached hereto as **Exhibit L**.

108. AHS's representation – that it does not possess RNN's Confidential Information and Trade Secrets – cannot be reconciled with Shafer and Rossi's post-employment actions and solicitation of RNN's nursing clients.

Damage to RNN

109. As a result of Defendants' misconduct, RNN has suffered damages including loss of business, loss of its confidential and trade secret information, loss of reputation and client goodwill, and other damages not yet known at this time.

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110. RNN has retained the services of the undersigned counsel to represent it in this matter and is obligated to pay its counsel a reasonable attorney's fee. In the event it is the prevailing party in this matter, RNN is entitled to an award of attorney's fees as against the Individual Defendants pursuant to Fla. Stat. § 542.335(k), 18 U.S.C. §1836, and Fla. Stat. § 688.005.

111. The subject Agreements also contain agreed upon remedies in the event of any breach of the Agreement. The Individual Defendants "agree[d] that money damages might not be a sufficient remedy for any breach or threatened breach of this Agreement by the Recipient or its Representatives." As such, Shafer and Rossi agreed that RNN "may, in addition to the other remedies which may be available to it, file a suit in equity to enjoin [them] from violation and breach of this Agreement." *See* Exhs. A, C.

COUNT I – BREACH OF CONTRACT
(Against Shafer and Rossi)

112. RNN repeats and reasserts each and every allegation contained in paragraphs 1 through 111 of this Verified Complaint, as though fully set forth herein.

113. Shafer and Rossi entered into enforceable Employment Agreements, as set forth above, wherein they agreed, among other things, (1) not to employed by or work on behalf of any business in competition with RNN for a period of twelve months following their separation from employment with RNN; (2) not to retain, use or disclose RNN's Confidential Business Information and trade secrets and to return all such documents and information in their possession upon their termination from employment; and (3) not to solicit clients or employees of RNN for a period of twelve months following the date their employment terminates. *See* Exhs. A, C.

114. Shafer and Rossi each breached their respective Employment Agreements, by, *inter alia*, (1) accepting employment with a direct competitor of RNN – AHS - within weeks of their

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terminations from RNN; (2) taking, retaining and disclosing RNN Confidential Business Information and Trade Secrets days prior to resigning and failing to return it even after being reminded to do so in their Separation Letters; and (3) soliciting clients of RNN to cease working with RNN and instead to work with them at AHS, during the 12-month restricted period.

115. RNN is entitled to specific performance of the Shafer Agreement and Rossi Agreement in the form of the enforcement of their non-competition agreements and the immediate return of all copies of RNN's Confidential Business Information and Trade Secrets, and independent verification that no such property remains in their or AHS's possession.

116. As a direct and proximate result of Shafer's and Rossi's respective breaches of their Agreements, RNN has suffered and will continue to suffer damages.

117. RNN does not have an adequate remedy at law for the harm and damage which Defendants' breaches of their Agreements have caused.

118. RNN has suffered economic losses as a result of Shafer's and Rossi's respective breaches of their Agreements.

WHEREFORE, RNN demands the following:

(a) injunctive relief enforcing the Shafer Agreement and the Rossi Agreement and enjoining all conduct in violation thereof;

(b) injunctive relief preventing Shafer and Rossi, and any individuals and entities with whom they are associated, including AHS, from utilizing RNN's Confidential Business Information and Trade Secrets, and requiring the immediate return of all Confidential Business Information and Trade Secrets of RNN in any of their possession, custody, or control;

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(c) injunctive relief prohibiting Shafer and Rossi from continuing to work for AHS and any other nurse staffing company that competes with RNN for the entirety of the twelve (12) month restricted period commencing on the date of the entry of the order;

(d) actual damages flowing from the breaches;

(e) attorneys' fees and costs incurred in bringing this action to enforce the Individual Defendants' Employment Agreements, pursuant to applicable statutes including, but not limited to, Fla. Stat. § 542.335; and

(f) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT II- MISAPPROPRIATION OF TRADE SECRETS UNDER
THE DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836)
(Against Shafer and Rossi)

119. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

120. The purpose of the Defend Trade Secrets Act ("DTSA"), codified at 18 U.S.C. §§ 1831-1839, is to "equip companies with the ... tools they need to protect their proprietary information ... [so that U. S. companies will] continue to lead the world in creating new and innovative products, technologies, and services." H.R. Rep. No. 114-529, at 6 (2016).

121. Under 18 U.S.C. § 1836(b), an owner of a trade secret that is misappropriated may bring a civil action if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.

122. Per 18 U.S.C. § 1836(b)(2), the Court may grant an *ex parte* application for an order providing for the seizure of property necessary to prevent the propagation or dissemination of the

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Proprietary Files.

123. Per 18 U.S.C. § 1836(b)(3), the Court may grant remedies of (a) an injunction to prevent actual or threatened misappropriation, (b) an award of damages, (c) an award of exemplary damages if the trade secret was willfully and maliciously misappropriated, and (d) an award of attorneys' fees if the trade secret was willfully and maliciously misappropriated.

124. The trade secrets at issue are RNN's Confidential Information and Trade Secrets, as described above.

125. The Confidential Information and Trade Secrets is related to services used in, or intended for use in, interstate or foreign commerce, as it is used to place providers located throughout the country on assignments in facilities located throughout the United States.

126. RNN is the "owner" of the Confidential Information and Trade Secrets stolen by Shafer and Rossi under 18 U.S.C. § 1839(4) because it is the entity in which rightful legal or equitable title to, or license in, the Confidential Information and Trade Secrets is reposed.

127. The Confidential Information and Trade Secrets constitute a "trade secret" under 18 U.S.C. § 1839(3) because they are a form of financial, business, scientific, technical, economic, or engineering information; RNN has taken reasonable measures to keep such information secret; and the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

128. RNN has made reasonable efforts under the circumstances to maintain the secrecy of its Confidential Information and Trade Secrets by numerous taking steps to protect it. These efforts include, but are not limited to employing sophisticated, passcode protected software programs to store and protect data, to track the flow of data, and to limit different levels of access

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to data to certain authorized individuals on a need-to-know basis, mandating its employees execute non-competition, non-solicitation and confidentiality agreements as a condition precedent to employment and to being granted access to its Confidential Information and Trade Secrets, promulgating policies expressly notifying its employees of the confidential nature of its information and prohibiting employees from copying, removing, using, or disclosing RNN's confidential information to anyone outside of the Company, and ensuring its physical facilities are locked at all times and require the use of a trackable keycard for access.

129. The Confidential Information and Trade Secrets were misappropriated by Shafer and Rossi under 18 U.S.C. § 1839(5)(A) because they acquired them through improper means, namely outright and flagrant theft and breach of their duties to maintain their secrecy.

130. The Confidential Information and Trade Secrets also were misappropriated by Shafer and Rossi under 18 U.S.C. § 1839(5)(B) because they used improper means to acquire Confidential Information and Trade Secrets (namely theft and breach of their duties to maintain their secrecy).

131. RNN has suffered substantial economic loss as a direct and proximate result of the Shafer and Rossi's violations of the DTSA alleged herein. RNN is entitled to an award of actual damages from Shafer and Rossi, plus exemplary damages of up to two times actual damages, plus attorney's fees and costs.

132. Shafer and Rossi have been unjustly enriched by profiting from their misappropriation, use, and/or disclosure of RNN's Confidential Information and Trade Secrets. RNN is entitled to imposition of a constructive trust requiring Shafer and Rossi to disgorge to RNN any amounts they have received or benefitted through their violations of the DTSA.

133. For all these reasons, RNN is entitled to bring a civil action under DTSA for

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misappropriation of trade secrets.

WHEREFORE, RNN demands the following:

- (a) an order to seize Shafer's and Rossi's personal and AHS email accounts, cloud storage accounts, smart phones, tablets, iPads, desktop computers, laptop computers, and disks, memory files, flash drives, hard drives, and the like;
- (b) injunctive relief preventing Shafer and Rossi and any person or entity to whom they disclosed the Confidential Information and Trade Secrets (including AHS) from utilizing RNN's Confidential Information and Trade Secrets, and requiring the immediate return of all Confidential Information and Trade Secrets of RNN in their possession, custody, or control;
- (c) an order requiring independent verification that none of RNN's Confidential Information and Trade Secrets remain in the possession, custody, or control of Shafer or Rossi or any individuals and entities with which they are associated, including AHS;
- (d) actual damages flowing from Shafer's and Rossi's misappropriation of RNN's Confidential Information and Trade Secrets;
- (e) an order requiring Shafer and Rossi to return the RNN Confidential Information and Trade Secrets and other documents and materials they took as well as to destroy all remaining information regarding RNN and its clients in their possession, custody, or control;
- (f) an order requiring Shafer and Rossi to make their personal email accounts, cloud storage accounts and hard drives available for forensic inspection and

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requiring all Individual Defendants to make their AHS email accounts available for forensic inspection to ensure all RNN's information was deleted;

- (g) attorneys' fees and costs incurred by RNN in bringing this action; and
- (h) all other remedies available at law or in equity as this Court deems just and appropriate.

**COUNT III- MISAPPROPRIATION OF TRADE SECRETS/VIOLATION OF THE
FLORIDA UNIFORM TRADE SECRETS ACT (Fla. Stat. § 688.001, et seq.)
(Against Shafer and Rossi)**

134. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

135. RNN possesses trade secrets, which include non-public information relating to current, former, and prospective nurse and facility clients; methods and types of services preferred by RNN's clients; sales and marketing techniques; negotiated contract terms and pricing, and financial information relating to RNN's business (the "Trade Secrets"). These Trade Secrets derive independent economic value, actual or potential, from not being generally known to the public and not being readily ascertainable by proper means by the public or any other person who may obtain commercial or economic value from the disclosure of such information.

136. RNN has made reasonable efforts under the circumstances to maintain the secrecy of such Trade Secrets by taking steps to protect it, as described above.

137. Shafer and Rossi intentionally misappropriated RNN's Trade Secrets without the knowledge or consent of RNN and with the purpose of utilizing them for their own benefit and/or the benefit of their new employer, AHS.

138. Shafer and Rossi knew that RNN's Trade Secrets were the property of RNN and

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that such property constituted confidential trade secrets, that they had a duty to RNN and a contractual obligation to maintain their secrecy, and that they were not permitted to remove, utilize, or disclose the Trade Secrets. Their actions, therefore, were willful and malicious.

139. Upon information and belief, Shafer and Rossi have utilized RNN's Trade Secrets for their personal gain and/or for the benefit of AHS.

140. The actions of Shafer and Rossi constitute misappropriation of RNN's Trade Secrets under Section 688.002 of the Florida Statutes.

141. Shafer and Rossi, and AHS, have been unjustly enriched by their unlawful use of RNN's Trade Secrets, and RNN is entitled to damages, including but not limited to loss of profits and disgorgement and the immediate return of all Trade Secrets of RNN in the any of the Defendants' possession, custody, or control.

142. Shafer and Rossi's actions were taken in willful, wanton, and/or reckless disregard of RNN's rights and warrant the imposition of exemplary damages.

WHEREFORE, RNN demands the following:

- (a) injunctive relief preventing Shafer and Rossi from utilizing RNN's Trade Secrets, and requiring the immediate return of all RNN's Trade Secrets in their possession, custody, or control, including those they have residing on their AHS devices and email accounts;
- (b) injunctive relief in the form of independent verification that none of RNN's Trade Secrets remains in the possession, custody, or control of Shafer and Rossi or any individuals and entities with which they are associated, including AHS;
- (c) actual damages flowing from Shafer and Rossi's misappropriation of

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RNN's Trade Secrets;

- (d) an order requiring Shafer and Rossi to return the RNN's Trade Secrets and any other documents and materials they took, as well as destroy all remaining information regarding RNN and its clients in their possession, custody, or control;
- (e) an order requiring Shafer and Rossi to make their personal and AHS email accounts, cloud storage accounts and hard drives available for forensic inspection to ensure all RNN information was deleted;
- (f) attorneys' fees and costs incurred by RNN in bringing this action; and
- (g) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT IV – CONVERSION
(Against Shafer and Rossi)

143. RNN repeats and reasserts each and every allegation contained in paragraphs 1 through 111 of this Verified Complaint, as though fully set forth herein.

144. Shafer and Rossi surreptitiously took RNN's Confidential Information and Trade Secrets without RNN's knowledge or consent and, upon information and belief, provided the Confidential Information and Trade Secrets to AHS.

145. In so doing, Shafer and Rossi improperly and without authorization exercised dominion and control over RNN's Confidential Information and Trade Secrets.

146. Further, Rossi has failed to return to RNN her RNN issued laptop, notwithstanding RNN's repeated requests for her to return its property, depriving RNN of the use of the use of the laptop.

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147. RNN is the exclusive owner of the Confidential Information and Trade Secrets and the laptop.

148. Shafer and Rossi actions with respect to the Confidential Information and Trade Secrets and laptop are inconsistent with the property rights of RNN and has deprived RNN of its exclusive ownership of the Confidential Information and Trade Secrets and laptop.

149. As a direct and proximate result of Shafer's and Rossi's conduct, RNN has suffered and will continue to suffer damages in an amount to be determined at trial.

150. Shafer's and Rossi's actions were willful and intentional, entitling RNN to punitive damages upon the filing of a proper motion.

151. RNN has been required to retain legal counsel to prosecute this action and is entitled to recover their reasonable attorneys' fees and costs.

WHEREFORE, RNN demands the following:

- (a) injunctive relief preventing Shafer, Rossi, and AHS from utilizing RNN's Confidential Information and Trade Secrets, and requiring the immediate return of all RNN's Confidential Information and Trade Secrets in Shafer's and Rossi's possession, custody, and/or control;
- (b) attorneys' fees and costs incurred in bringing this action;
- (c) actual damages flowing from the conversion; and
- (d) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT V – BREACH OF FIDUCIARY DUTY
(Against Shafer and Rossi)

152. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

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153. RNN had significant confidence and trust in Shafer and Rossi, which led to their promotions to Senior Recruiters. Rossi also was promoted to a leadership position in management.

154. In light of their senior positions, significant compensation, and duties and the trust and confidence RNN had reposed in them, Shafer and Rossi had a fiduciary duty during their employment to, *inter alia*, act in the best interests of RNN at all times, to safeguard and protect RNN's Confidential Information and Trade Secrets, to not use and/or retain the RNN's Confidential Information and Trade Secrets or any materials acquired or developed by them during the course of their employment for their personal benefit and/or the benefit of RNN's competitors, like AHS, and to not breach their agreements or to tortiously interfere with other agreements by soliciting RNN's clients to resign their positions and seek reassignment through AHS.

155. This fiduciary duty continued post-employment, in that the Shafer and Rossi owed RNN a duty to, *inter alia*, not use or disclose to RNN's competitors any information, knowledge, or materials acquired or developed by them during the course of their employment for their own benefit and/or the benefit of RNN's competitors, like AHS, and not to use information they acquired at RNN to tortiously interfere with RNN's business relationships and solicit its clients to work with AHS.

156. By virtue of, *inter alia*, taking, retaining, using and/or disclosing RNN's Confidential Information and Trade Secrets following their terminations from RNN, and by tortiously interfering with RNN's relationships with its nurse clients for their personal benefit, for the benefit of a competitor and/or to disadvantage RNN, Shafer and Rossi breached their fiduciary duty to RNN.

157. Additionally, by virtue of, *inter alia*, taking with them RNN's Confidential Information and Trade Secrets *during their employment*, to enable them to induce RNN's clients

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to cease doing business with RNN and instead to do business with them at AHS, Shafer and Rossi breached their fiduciary duty to RNN.

158. As a direct and proximate result of Shafer and Rossi's breach of their fiduciary duties, RNN has suffered and will continue to suffer damages in an amount to be determined at trial.

159. Shafer and Rossi's actions were willful and intentional, entitling RNN to punitive damages.

WHEREFORE, RNN demands the following:

- (a) injunctive relief preventing the Individual Defendants from utilizing RNN's Confidential Information and Trade Secrets, and requiring the immediate return of all RNN's Confidential Information and Trade Secrets in their possession, custody, or control;
- (b) actual damages flowing from the Individual Defendants' breach of fiduciary duty; and
- (c) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT VI – CIVIL CONSPIRACY
(against all Defendants)

160. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

161. Upon information and belief, all Defendants conspired to misappropriate RNN's Confidential Information and Trade Secrets, interfere with RNN's existing and potential relationship with its nurse clients (including without limitation S.G, S. S., T. M., M. R., D. C., N.

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V., J. N., A. M., M. D., S. L., and H. H.), breach Shafer and Rossi's fiduciary duties and contractual obligations owed to RNN, and various other wrongful acts alleged herein.

162. In the course of this civil conspiracy, Defendants committed several unlawful and overt acts, including misappropriating RNN's Confidential Information And Trade Secrets and soliciting several nurses to cease their relationship with RNN and instead to do business with AHS.

163. As a direct and proximate result of Defendants' conspiracy against RNN, RNN has suffered and will continue to suffer special damages specific to the civil conspiracy including, but not limited to, reputational damage and loss of goodwill due to Defendants' betrayal and the conspiracy itself.

164. Defendants' conspiracy and their respective overt acts caused RNN to suffer damages.

WHEREFORE, RNN demands the following:

- (a) injunctive relief preventing Shafer and Rossi and any individuals and entities with which they are associated (such as AHS) from utilizing RNN's Confidential Information and Trade Secrets, and requiring the immediate return of all Confidential Information and Trade Secrets of RNN in any of their possessions, custody, or control;
- (b) injunctive relief in the form of independent verification that none of RNN's Confidential Information or Trade Secrets remains in the possession, custody, or control of Defendants and/or any individuals and entities with which they are associated;

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- (c) actual damages flowing from Defendants' conspiracy; and
- (d) all other remedies available at law or in equity as this Court deems just and appropriate.

**COUNT VII –TORTIOUS INTERFERENCE WITH
ADVANTAGEOUS BUSINESS AND CONTRACTUAL RELATIONSHIPS
(against all Defendants)**

165. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

166. RNN has valid, enforceable and advantageous contractual relationships with Shafer and Rossi, and the Agreements these Individual Defendants entered into with RNN contain restrictive covenants, including non-competition, non-solicitation, and confidentiality provisions. *See* Exhs. A and C.

167. AHS was well aware of the Shafer and Rossi Agreements and nevertheless employed and continue to employ them with full knowledge of their Agreements not to work for a competitor for a period of twelve (12) months following their separation from RNN.

168. AHS knows that Shafer and Rossi are violating their Agreements with RNN by working for it, and that RNN has an advantageous contractual relationship with each of them. RNN is fully aware of Shafer's and Rossi's Agreements, which prohibit them from competing with RNN by, *inter alia*, accepting employment with direct competitors, such as AHS, and disclosing RNN's Confidential Information and Trade Secrets.

169. AHS is benefitting from Shafer's and Rossi's actions and incentivizing them to do so through compensation and other benefits.

170. AHS intentionally and unjustifiably interfered with RNN's contractual relationships with Shafer and Rossi by inducing them to and/or assisting them in breaching their

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restrictive covenants by commencing work at AHS, RNN's direct competitor, by having them bring with them and utilize RNN's Confidential Information and Trade Secrets, and by permitting them to solicit RNN's clients for AHS's benefit.

171. RNN has suffered damages as a result of AHS's unjustified interference.

172. RNN also has advantageous business and contractual relationships with its facility clients and nurse providers, including without limitation S.G., S, S., T. M., M. R., D. C., N. V., J. N., A. M., M. D., S. L., and H. H.

173. Defendants, who are well aware of these relationships, nevertheless actively solicited and continue to solicit a number of RNN's nurse clients and, upon information and belief, facility clients, with full knowledge of their business relationships and contracts with RNN.

174. Defendants intentionally and unjustifiably interfered with RNN's contractual and business relationships with its nurse clients by inducing them to and/or assisting them to quit their placements secured through RNN and/or choosing not to continue doing business with RNN and instead to do business with Shafer and Rossi at AHS.

175. Upon information and belief, Defendants have diverted business opportunities from RNN by directly contacting facility clients about placements Shafer and Rossi were working on or learned about at RNN in order to fill those opportunities through AHS and by soliciting them to do business with AHS instead of RNN.

176. RNN has suffered damages as a result of Defendants' unjustified interference with its client contracts and business relationships.

WHEREFORE, RNN demands the following:

- (a) injunctive relief preventing Defendants from continuing to interfere with RNN's business relationships and contracts;

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- (b) actual damages flowing from the tortious interference; and
- (c) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT VIII –AIDING AND ABETTING BREACH OF CONTRACT
(against AHS)

177. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

178. RNN has valid and enforceable agreements with Shafer and Rossi.

179. Upon information and belief, AHS knew at the time they hired Shafer and Rossi that such would be a violation of the Shafer and Rossi Agreements.

180. When AHS received the Cease and Desist Letter, AHS knew that its continued employment of Shafer and Rossi was a violation of the Shafer and Rossi Agreements.

181. Defendants, who are well aware of the Shafer and Rossi Agreements, nevertheless hired and continued to employ Shafer and Rossi in violation of same.

182. AHS encouraged, instigated and substantially assisted Shafer and Rossi to breach their restrictive covenants by hiring them, and as a result thereof, is jointly liable with Shafer and Rossi for any and all appropriate and effective relief permitted by law and equity, including section 542.225(j).

183. RNN has suffered damages as a result of AHS's aiding and abetting Shafer and Rossi's breach of their Agreements.

WHEREFORE, RNN demands the following:

- (d) injunctive relief preventing AHS from continuing to aid and abet Shafer and Rossi's restrictive covenants;
- (e) actual damages flowing from the tortious interference; and

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- (f) all other remedies available at law or in equity as this Court deems just and appropriate.

COUNT IX – INJUNCTIVE RELIEF
(against all Defendants)

184. RNN repeats and reasserts each and every allegation contained in paragraphs 1-111 of this Verified Complaint, as though fully set forth herein.

185. If not enjoined, Shafer and Rossi will continue to violate their restrictive covenant agreements, and all of the Defendants, including AHS, will continue to use and disclose RNN's Confidential Information and Trade Secrets they unlawfully obtained to undermine RNN in the industry, to cause RNN to sustain reputational harm, and to cause RNN the ongoing loss of its Confidential Information and Trade Secrets, which will result in additional irreparable harm for which monetary damages would be an inadequate remedy.

186. Accordingly, RNN seeks an order enjoining Shafer and Rossi from continuing to violate the restrictive covenants in their Agreements and enjoining all of the Defendants, including AHS, from continuing to use, transfer and/or disclose RNN's Confidential Information and Trade Secrets, which they improperly obtained and/or retained.

187. Finally, RNN seeks an order enjoining Shafer, Rossi, and AHS from continuing to tortiously interfere with RNN's contractual and business relationships with its clients.

188. RNN also seeks an order requiring Defendants to immediately return to RNN all of RNN Confidential Information and Trade Secrets and other documents and property in their possession, custody and/or control.

WHEREFORE, RNN demands the following:

- (a) injunctive relief enjoining Shafer, Rossi, and AHS from directly or indirectly transferring, using, or disclosing RNN's Confidential

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Information;

- (b) injunctive relief enjoining Shafer and Rossi from violating their non-competition and non-solicitation agreements;
- (c) injunctive relief enjoining AHS from using RNN's Confidential Information and Trade Secrets it has obtained through its employment of the Shafer and Rossi;
- (d) injunctive relief enjoining Defendants from tortiously interfering with RNN's business relationships with its provider clients; and
- (e) all other remedies available at law or in equity as this Court deems just and appropriate.

PRAYER FOR RELIEF

WHEREFORE, RNN respectfully requests that the Court enter judgment in its favor and against Defendants as follows:

A. Injunctive relief (including a preliminary injunction and permanent injunction) against Shafer, Rossi, and AHS (i) enjoining them from retaining and/or using RNN's Confidential Information and Trade Secrets that they took and/or improperly obtained; (ii) directing them to return to RNN the Confidential Information and Trade Secrets in whatever form in which they exist in Defendants' possession; (ii) enjoining the transfer of the Confidential Information and Trade Secrets to any third party; (iii) requiring Defendants to identify all copies and all transfers of the Confidential Information and Trade Secrets, including the identity of any third party receiving or obtaining the Confidential Information and Trade Secrets or a copy thereof; (iv) prohibiting Defendants from misappropriating, using, or disclosing RNN's Confidential Information and Trade Secrets in their possession; and (v) enjoining Shafer and Rossi from violating the restrictive covenants in their Agreements;

B. An award of monetary damages in an amount to be determined at trial including, but not limited to, the disgorgement of all profits Defendants were and/or will be paid by RNN's clients as a result of their misconduct;

C. An award of exemplary damages.

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- D. An award of attorneys' fees and costs.
- E. An award of RNN's costs and expenses of this suit.
- F. Such other and further relief that the Court deems just and proper.

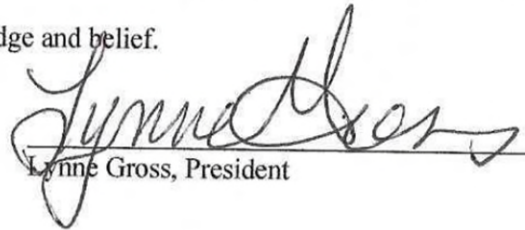
Dated: September 5, 2023

Respectfully submitted,

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Counsel for the Plaintiff

VERIFICATION

Pursuant to 28 U.S. Code § 1746, I declare under penalties of perjury that I am Vice President of RNN, and that I have read the foregoing Verified Complaint, and that the facts stated in it are true and correct to the best of my knowledge and belief.


Lynne Gross, President

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EXHIBIT A

**EMPLOYMENT AGREEMENT
INCLUDING CONFIDENTIALITY, NON-COMPETITION
AND NON-SOLICITATION PROVISIONS**

This Employment Agreement Including Confidentiality, Non-Competition and Non-Solicitation Provisions (this "Agreement") is hereby made and entered into by and between CHG Healthcare Services, Inc., and all of its parent, subsidiary, and affiliated corporations, companies, and business entities, including but not limited to CHG Companies, Inc., CHG Medical Staffing, Inc., CHG Management, Inc., CompHealth Associates, Inc. and Weatherby Locums, Inc. (collectively, the "Company"), and Rachel Shafer ("Employee"), on July 26, 2012 (the "Effective Date").

RECITALS

WHEREAS, the Company is engaged in the business of recruiting, staffing and placing healthcare and healthcare-related personnel, including, without limitation, physicians, nurses, pharmacists and allied healthcare professionals of all specialties and other staffing candidates (collectively, "Healthcare Personnel"), for positions with healthcare institutions, medical practices, clinics, hospitals, healthcare businesses, retailers, and other businesses, customers or clients (collectively, "Clients") on a permanent and/or temporary basis (collectively, with any future business the Company conducts, the "Business");

WHEREAS, the Company has developed and acquired and will continue to develop and acquire, at great cost and expense, Confidential Business Information (as defined below), to which Employee, in the course of employment with the Company, will have access;

WHEREAS, the Confidential Business Information is critical to the effective and successful conduct of the Business and the Company's goodwill, and derives independent economic value from not being generally known and readily ascertainable;

WHEREAS, great loss and damage would be sustained by the Company if, during the term of this Agreement or following its termination, Employee were to make any of the Confidential Business Information available to other persons or entities engaged in competition with the Company or use the same in competition with the Company;

WHEREAS, the Company desires to protect its goodwill, its investment in the education and training of Employee, its Client and Healthcare Personnel relationships, its present and future Confidential Business Information and its competitive advantage and present and future business prospects; and

WHEREAS, Employee desires to be employed by the Company on an at-will basis, and the Company is willing to employ and train Employee only upon the terms, conditions and restrictions set forth herein, and the parties desire to define the duties, responsibilities, covenants, and restrictions of each of the parties hereto.

AGREEMENT

NOW THEREFORE, in consideration of the promises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. **Exclusive Employment; Duties; Compensation.**

(a) The Company hereby agrees to employ Employee as an at-will employee pursuant to the terms and conditions set forth herein, and Employee agrees to become so employed by the Company. Employee agrees to devote Employee's exclusive business time, attention and skill to the business of the Company. Employee agrees not to accept any other employment that would conflict with the performance of the duties prescribed by the Company while this Agreement is in effect, except with the prior written consent of the Company. Employee's compensation hereunder shall be determined from time to time by the Company and in the Company's sole discretion. Employee shall be entitled to participate in those employee benefit plans and other benefits and incentives as the Company shall determine in its sole discretion.

(b) Employee shall, at all times and to the best of Employee's ability, experience and talent, perform all duties and render all services that may be required of and from Employee pursuant to the terms hereof or as may be directed from time to time by Employee's superior employees. Such duties shall be rendered at such places and times as the Company shall in good faith require or as the interests, needs, business and opportunities of the Company shall require or make advisable.

2. **Confidential Business Information.** "Confidential Business Information" shall mean, individually and collectively, any and all trade secrets and other confidential and proprietary information of the Company (including confidential and proprietary information of a third party in the possession of the Company), whether in oral, written, electronic or other form, and whether or not legended or otherwise identified as Confidential Business Information, including, without limitation, information relating to current, former and prospective Clients (including, without limitation, names, addresses, telephone numbers, email addresses, mailing lists, contact persons, records of Client usage, preferences, requirements, job openings and staffing needs, rates, fees and compensation information, licensing and credentialing information and requirements, contract terms, and prospects), current, former and prospective Healthcare Personnel (including, without limitation, names, addresses, telephone numbers, email addresses, mailing lists, other personal and contact information, records of Healthcare Personnel staffing history, preferences, and requirements, licensing and credentialing information and requirements, rates, fees, benefits, and compensation information, contract terms, and prospects), methods and types of recruitment and placement services, methods of service preferred by Clients and Healthcare Personnel, sales and marketing information, methods and programs (including, without limitation, sales and marketing data, promotional strategies and programs, advertising plans, market research and analyses, and sales techniques), leadership, training, coaching and employee development programs and methods, documents, agreements, contracts and other arrangements, employee, independent contractor and consultant information (including, without limitation, compensation and benefits information, terms and conditions of employment or engagement, and performance reviews and evaluations), matters of internal organization, plans, policies, procedures, manners of operation, customized software, computer and management

information systems, passwords, manuals, trade secrets, know-how and other intellectual property, business plans and forecasts, financial statements, budgets, financial reports and analyses, accounting and statistical data, other financial information relating to the business of the Company, and other confidential and proprietary information of the Company.

3. Assignment of Certain Rights.

(a) "Invention" means any and all inventions; innovations; discoveries; improvements; designs; works of authorship; derivative works; processes; computer software and related information; patent applications; databases; mask works; trade secrets; know-how; technology; copyrights; trademarks, trade dress, trade names, or service marks; Website ideas and plans, including but not limited to look and feel; and other intellectual property or proprietary information rights, whether tangible or intangible, or any part of or modification, renewal, extension, continuation, registration or existing or future rights with respect to the foregoing (whether or not reduced to practice, patentable, or registrable under trademark, copyright or similar laws). "Employee Invention" means any and all Inventions that are: conceived, developed, authored, invented, reduced to practice, or otherwise created by Employee, either alone or jointly with others, (i) as a result of any work, services or duties performed by Employee for the Company or otherwise within the scope of Employee's employment, (ii) on the Company's time, and/or (iii) with the aid, assistance, or use of any of the Company's property, equipment, facilities, supplies, resources, or Confidential Business Information.

(b) Employee hereby irrevocably grants, conveys, and assigns to the Company all right, title, and interest in and to any and all Employee Inventions. Employee hereby forever waives and agrees never to assert any rights that Employee may have in or regarding any Employee Invention, even after termination of Employee's employment with the Company for any reason. Employee further agrees that all works of authorship that he/she creates (including, without limitation, any Employee Invention), whether alone or jointly with others, within the scope of and during any employment with the Company are "works made for hire" authored and owned by the Company under the United States Copyright Act.

(c) Employee agrees: (i) to promptly and fully inform the Company of any Employee Invention; (ii) to assist and maintain complete and accurate records of all Employee Inventions; (iii) to acknowledge and deliver promptly to the Company (without charge to, but at the expense of, the Company) such written instruments and to do such other acts as may be necessary in the Company's opinion to obtain, maintain and enforce patents, copyrights, mask work rights, trademarks, trade secrets, and other legal protections for any Employee Inventions.

(d) Attached hereto as Exhibit A is a list describing all Inventions (if any) which were made, authored, created or developed by Employee prior to employment with the Company (collectively referred to as "Prior Inventions"), which relate to the Company's existing or proposed business and which are not assigned to the Company. If a list is not attached as Exhibit A, Employee represents that there are no such Prior Inventions. If, in the course of employment with the Company, Employee incorporates a Prior Invention into an Invention of the Company (whether or not an Employee Invention), Employee hereby grants to the Company a nonexclusive, royalty-

free, irrevocable, perpetual, worldwide license to make, have made, modify, create derivative works of, register copyright in the name of the Company, use, and sell such Prior Invention as part of or in connection with such Invention of the Company.

4. Duty of Confidentiality.

(a) Employee covenants and agrees to not, at any time or in any manner, use any of the Confidential Business Information for any purpose other than as reasonably necessary in the performance of Employee's duties for the Company and for the exclusive benefit of the Company. Employee shall not at any time, both during and after employment with the Company (regardless of the manner or reason of termination or cessation of employment with the Company), or in any form or manner, either directly or indirectly, copy, disseminate, divulge, disclose, transfer or communicate any Confidential Business Information to any other employee or to any other person or entity except as reasonably necessary in the performance of Employee's duties for the Company.

(b) Employee agrees that all Confidential Business Information is the sole and exclusive property of the Company. Employee further agrees that all files, documents, works, papers, electronic files and information and other materials containing any Confidential Business Information or information which Employee prepares, uses, possesses or controls that affects or relates to the business of the Company are the sole property of the Company. Employee agrees to take all steps necessary, and all steps requested by the Company, to ensure that the Confidential Business Information is kept confidential and to comply with all applicable policies and procedures of the Company regarding the use, disclosure, maintenance and security of the Confidential Business Information.

(c) Upon the termination of Employee's employment with the Company (regardless of the manner or reason of termination), Employee shall immediately return to the Company all Confidential Business Information, Company assets, and other information and property obtained from or relating to the Company or to which Employee has access, in good condition, normal wear and tear excepted, and shall not retain any copies thereof, whether in hard copy or electronic form.

5. Non-Competition Agreement. Employee agrees that, beginning on the Effective Date and continuing for one (1) year from the later of (i) the date Employee's employment with the Company is terminated or otherwise ceases (regardless of the manner or reason of termination or cessation) or (ii) the latest date on which Employee breaches any of the provisions of Sections 4, 5, 6, or 7 hereof (the later one-year period being referred to as the "Covenant Period"), Employee shall not, anywhere in the United States, directly or indirectly, individually or jointly, whether as an officer, director, partner, shareholder, member, owner, employer, employee, agent, independent contractor, advisor, consultant, debtor, guarantor or otherwise, engage in, have an interest or investment in, lend funds or become indebted to, be associated with, advise or assist others with, be employed by or otherwise render services to any person or entity that is engaged in or competes with the type(s) of staffing that Employee was engaged in at any time during Employee's last three (3) years of employment with the Company. The Company and Employee agree that for purposes of this Section 5, the "types" of staffing the Company engages in include, without limitation, physician staffing, nurse staffing, allied staffing and such other segment of staffing engaged in by the Company in the future. Employee further agrees and understands that regardless of the type(s) of staffing engaged in by Employee during

Employee's last three years of employment with the Company, this restriction applies to both temporary (including "locum tenens") and permanent staffing within such type(s) of staffing (e.g. Employee could not work in allied temporary staffing if Employee had worked in allied permanent staffing at any time during Employee's last three years of employment with the Company). By way of example, if Employee worked in, supported, managed or otherwise engaged in, in any capacity, physician staffing at any time during Employee's last three years of employment with the Company, Employee agrees not to work in, support, manage or otherwise engage in, in any capacity, physician staffing on a permanent or locum tenens basis during the Covenant Period. By way of further example, if Employee worked in, supported, managed or otherwise engaged in, in any capacity, physician staffing and nurse staffing at any time during Employee's last three years of employment with the Company, Employee agrees not to work in, support or manage or otherwise engage in, in any capacity, physician and nurse staffing on a permanent or temporary basis during the Covenant Period. Employee acknowledges that because of Employee's access to the Company's Confidential Business Information, and because of the nationwide nature of the Business, a violation of this covenant will cause irreparable injury to the Company. The ownership of less than two percent (2%) of a publicly-traded corporation or entity shall not be deemed, by itself, to violate the non-competition provisions of this Section 5.

6. Non-Solicitation of Healthcare Personnel or Clients. Employee agrees that, during the Covenant Period, Employee shall not, in any manner, either directly or indirectly, for Employee's own behalf or for or on behalf of any other person or entity (other than the Company), solicit, recruit, offer or otherwise provide services, or attempt to solicit, recruit, offer or otherwise provide services, that are the same as or similar to the Business to any current, former or prospective Healthcare Personnel or Clients of the Company with whom Employee worked with or serviced, communicated with, had contact in any manner, or otherwise was aware of during Employee's last three (3) years of employment with the Company. Employee further agrees that, during the Covenant Period, Employee shall not, in any manner, either directly or indirectly, induce, encourage, solicit or cause, or attempt to induce, encourage, solicit or cause Healthcare Personnel or Clients to cease doing business with, or otherwise change or diminish the Healthcare Personnel or Clients' business with, the Company.

7. Non-Solicitation of Employees. Employee agrees that, during the Covenant Period, Employee shall not, in any manner, either directly or indirectly, for Employee's own behalf or for or on behalf of any other person or entity (other than the Company), solicit, divert, induce or otherwise cause, attempt to cause or encourage employees or agents of the Company to terminate employment with the Company, enter into any employment, consulting or advisory arrangement or contract with or to perform any services for or on behalf of Employee or any other person or entity (other than the Company), or to enter into any kind of business, including without limitation the Business or any similar business. Employee further agrees that, during the Covenant Period, Employee shall not, in any manner, either directly or indirectly, for Employee's own behalf or for or on behalf of any other person or entity (other than the Company), hire or engage or attempt to hire or engage, in any capacity, any employee or agent of the Company. For purposes of this Section 7, "employee" or "agent" (whether in the singular or plural) shall mean and refer to any individual who was an employee or agent of the Company at the time of the attempted or actual solicitation, diversion, inducement, encouragement, hiring, engagement or similar action.

8. Notice to Subsequent Employer. Employee agrees that, during the Covenant Period, Employee will provide a copy of this Agreement to any subsequent employer of Employee. Employee further agrees that the Company may provide a copy of this Agreement to

any subsequent employer of Employee and that such action by the Company shall not be used as the basis for a claim of negligent or intentional interference with contract or prospective economic advantage, breach of the covenant of good faith and fair dealing, blacklisting, or otherwise.

9. Prior Agreements. Employee hereby represents that Employee is not restricted by any prior agreement(s) with any other person or entity that would, in any way, conflict with or prevent the execution of the responsibilities that pertain to Employee's position with the Company. Employee shall not disclose to the Company, or use in the performance of his/her work or responsibilities for the Company, any proprietary or confidential information, trade secret, or other intellectual property of (a) Employee, (b) any former employer of Employee, or (c) any other individual or entity, unless the Company has received written authorization from Employee or such former employer or other Person and the Company has instructed Employee in writing to do so. The provisions of this Section 9 are not intended to create any rights as an intended or third-party beneficiary for any third party.

10. Miscellaneous.

(a) Acknowledgement of Restrictions. Employee has carefully read and considered the provisions of this Agreement and, having done so, agrees that the restrictions set forth herein (including without limitation, the scope, the time period of restriction and the geographical areas of restriction set forth in Sections 5, 6, and 7 hereof) are fair and reasonable and are reasonably required for the protection of the business interests and goodwill of the Company and to prevent irreparable harm to the foregoing.

(b) Reformation; Severability. The Company intends to restrict Employee under this Agreement only to the extent necessary for the protection of the Company's legitimate business interests. The Company and Employee agree that the scope, duration, and geographic area provisions are reasonable. In the event a court of competent jurisdiction concludes that any provision of this Agreement is too restrictive, such provision(s) shall nevertheless be valid and enforceable to the fullest extent permitted by such court, and such provision(s) shall be reformed to the maximum scope, time, and/or geographic limitations determined appropriate by such court. If any one or more of the terms, provisions, covenants or restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(c) Injunctive Relief. Employee specifically acknowledges that a breach of this Agreement by Employee (particularly with respect to the covenants and restrictions in Sections 3, 4, 5, 6, and 7) will cause the Company to suffer irreparable damage and other damages beyond those that can be calculated. Employee further agrees and acknowledges that money damages would not be a sufficient remedy for a breach of this Agreement and that the Company shall be entitled to equitable relief, including, without limitation, injunctive relief and specific performance, as a remedy for any actual or threatened breach of this Agreement (particularly with respect to the covenants and restrictions in Sections 3, 4, 5, 6, and 7). Employee hereby expressly waives any and all right or requirements to prior notice or for security or the posting of any bond in connection with temporary injunctive relief or other such equitable or injunctive remedies on behalf of the Company. The rights and remedies provided for in this Agreement are cumulative, and such rights, remedies and equitable relief shall not be deemed to be the

exclusive remedies for a breach of this Agreement by Employee, but shall be in addition to all other remedies available at law or equity to the Company.

(d) **Assignment.** Employee shall not assign or delegate Employee's rights, duties or obligations pursuant to this Agreement to any other person. Employee acknowledges and agrees that the Company may assign any of its rights or obligations under this Agreement without the consent of Employee, including, without limitation, an assignment to any purchaser or successor of the Company.

(e) **Entire Agreement; Survival.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between Employee and the Company with respect thereto. Notwithstanding the foregoing, nothing in this Agreement shall be construed as relieving Employee of the duty to comply with the Company's rules, policies, and practices.

The provisions of this Agreement shall survive the termination of this Agreement (including, without limitation, the provisions of Sections 3, 4, 5, 6 and 7), except that the Company and Employee shall have no further obligations under Section 1 hereof.

(f) **Governing Law; Venue.** Employee and the Company agree that the validity, interpretation, construction, effect, and enforcement of this Agreement shall be governed by the laws of the State of Utah, without regard to any conflict-of-law rules or principles that would require the application of the substantive law of a State other than Utah. Each party hereto (i) agrees that any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted exclusively in the courts of the State of Utah or of the United States of America located in the State of Utah, Salt Lake County; (ii) waives any objection that such party may have now or hereafter to the venue of any such suit, action or proceeding; and (iii) irrevocably consents and submits to the personal jurisdiction of the courts of the State of Utah and the United States of America located in the State of Utah, Salt Lake County, in any such suit, action or proceeding.

(g) **Litigation; Jury-Trial Waiver; Attorney's Fees and Costs.** The parties to this Agreement acknowledge and agree that any litigation to enforce or defend any rights under this Agreement, and any litigation arising out of or in connection with Employee's employment by the Company, **SHALL BE CONDUCTED BEFORE AND TRIED TO A JUDGE WITHOUT A JURY, EACH PARTY HERETO KNOWINGLY AND VOLUNTARILY WAIVING THEIR RIGHT TO TRIAL BY JURY. THIS PROVISION APPLIES TO ALL CLAIMS BY EMPLOYEE AGAINST THE COMPANY ARISING OUT OF EMPLOYEE'S EMPLOYMENT, INCLUDING BUT NOT LIMITED TO CLAIMS ARISING UNDER THE CIVIL RIGHTS ACT OF 1964, AS AMENDED, THE AGE DISCRIMINATION IN EMPLOYMENT ACT, AS AMENDED, THE AMERICANS WITH DISABILITIES ACT, THE FAMILY AND MEDICAL LEAVE ACT, THE FAIR LABOR STANDARDS ACT, THE EMPLOYEE RETIREMENT INCOME SECURITY ACT ("ERISA"), AS AMENDED, THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT ("COBRA"), ANY STATE OR FEDERAL "WHISTLEBLOWER" PROTECTION LAWS, ANY STATE OR LOCAL CIVIL RIGHTS OR EMPLOYMENT DISCRIMINATION LAWS, ANY CLAIMS OR CAUSES OF ACTION BASED ON TORT OR CONTRACT THEORIES, AND ANY OTHER CLAIM OR CAUSES OF ACTION ARISING UNDER FEDERAL, STATE OR LOCAL**

STATUTORY OR COMMON LAW.

In any dispute under this Agreement, each party agrees to pay for its own direct, indirect or incidental expenses incurred, including, but not limited to, its own attorney's fees, court costs and other expenses incurred throughout all negotiations, trials or appeals undertaken in order to enforce its rights under this Agreement, despite any statutory or case law to the contrary.

(h) **Waiver; Amendment.** No failure or delay by either party in exercising any right, power, privilege or restriction hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or wavier thereof preclude any other or further exercise thereof or the exercise of any other right, power, privilege or restriction hereunder. This Agreement may be amended or modified only by written agreement executed by all of the parties hereto.

(i) **Company Affiliates.** Employee understands and agrees that this Agreement is executed by the Company on its own behalf and on behalf of each of its subsidiaries and affiliates, including the particular entity by whom Employee is employed, and that Employee's obligations under this Agreement shall apply equally to each of the Company and its subsidiaries and affiliates. In the event that Employee is transferred or assigned to or otherwise becomes employed by any other of the Company's subsidiaries or affiliates, Employee's obligations under this Agreement shall continue to apply equally to each of such subsidiary or affiliate and to the Company and its other subsidiaries and affiliates and any of such parties may enforce this Agreement in its own name as if it were a party to this Agreement.

(j) **Notices.** All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given only upon hand delivery thereof or upon the fifth (5th) business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To the Company: Attn: Director of Human Resources
6440 South Millrock Drive, Suite #175
Salt Lake City, Utah 84121

To Employee: The last known address the Company has on file for Employee
11313 Coral Reef Drive
Boca Raton, FL 33498

or to such other address or such other person as any party shall designate, in writing, to the other for such purposes and in the manner hereinabove set forth.

(k) **Further Assurances.** The parties hereto will execute and deliver such further instruments and do such further acts and things as may be reasonably required to carry out the intent and purposes of this Agreement.

(l) **Voluntary Nature of the Agreement.** Employee acknowledges and agrees that Employee has carefully read and understands this Agreement, has had the opportunity to consult with counsel of Employee's own choosing about this Agreement, and that Employee is entering this Agreement knowingly and voluntarily.

(m) **Headings; Singular/Plural.** The headings used in this Agreement are for convenience only and are not intended to be used in its construction or interpretation. In

interpreting this Agreement, the singular shall include the plural, and the plural the singular, as appropriate to the content and context of the provision at issue.

EMPLOYEE IS AN EMPLOYEE AT WILL AND MAY RESIGN OR BE TERMINATED BY THE COMPANY, AT EITHER PARTY'S SOLE DISCRETION, AT ANY TIME, WITH OR WITHOUT NOTICE, WITHOUT NEED TO SHOW REASON OR CAUSE, SUBJECT TO THOSE OBLIGATIONS HEREUNDER THAT SURVIVE TERMINATION OF THIS AGREEMENT. EMPLOYEE AGREES THAT (A) NO EMPLOYEE HANDBOOK OR OTHER POLICY OR PROCEDURE FOLLOWED BY THE COMPANY OR (B) NO WRITTEN OR ORAL STATEMENT MADE BY ANY OFFICER, DIRECTOR, MANAGER, SUPERVISOR, OR CO-WORKER OF THE COMPANY CAN MODIFY THE AT-WILL NATURE OF EMPLOYEE'S EMPLOYMENT WITH THE COMPANY AS SET FORTH IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned parties have executed the foregoing Employment Agreement Including Confidentiality, Non-Competition and Non-Solicitation Provisions as of the date first above written.

EMPLOYEE

COMPANY

Rachel Shafer
Signature of Employee
Rachel Shafer
Name of Employee (Typed or Printed)

Ann Smith
Signature
mg. Administrator
Title

EXHIBIT A

PRIOR INVENTIONS

DE 1-3

EXHIBIT B

3/30/23

Rachel Shafer
10064 Boca Vista Dr
Boca Raton, FL 33498

Re: Employment Agreement

Dear Rachel,

I am writing to remind you of your obligations under the employment agreement you executed during your employment and provide a copy of this agreement. Please review the entire agreement with special attention to the sections concerning Non-Competition, Non-Solicitation of Customers and Non-Solicitation of Employees.

We anticipate that you will not participate in any of these activities; however we did want to bring these obligations to your attention. If you do violate the obligations you agreed to, we will not hesitate to take all necessary legal actions to force you to stop all violations.

If you have any questions regarding the agreement, please do not hesitate to contact me at the number listed below. I wish you the best of luck in your future career endeavors.

Sincerely,



Keela Briles
Consultant, Employee Relations
Keela.Briles@chghealthcare.com
954-837-2694

Enclosures: Employee Agreement

DE 1-10

EXHIBIT I

JacksonLewis

Jackson Lewis P.C.
One Biscayne Tower
2 South Biscayne Blvd, Suite 3500
Miami FL 33131
(305) 577-7600 Direct
(305) 373-4466 Fax
jacksonlewis.com

MY DIRECT DIAL IS: 305.577.7603
MY EMAIL ADDRESS IS: JENNIFER.SCHWARTZ@JACKSONLEWIS.COM

July 14, 2023

SENT VIA EMAIL & CERTIFIED MAIL

Rachel Shafer
10064 Boca Vista Dr
Boca Raton, FL 33498
Email: rachel.shafer@gmail.com

**Re: Cease and Desist Violating Non-Compete Agreement
Post-Employment Obligations to CHG Healthcare Services, Inc.**

Dear Ms. Shafer:

We serve as counsel to your former employer, CHG Healthcare Services, Inc. (“CHG” or the “Company”). As you are aware, on July 26, 2012, you entered into an Employment Agreement Including Confidentiality, Non-Competition and Non-Solicitation Provisions (the “Agreement”) with CHG, which contains certain post-employment obligations. It has come to CHG’s attention that you have failed to comply with those obligations and engaged in conduct that violates the Agreement.

CHG has learned that since your employment ended on April 3, 2023, you have been working for its competitor, AHS Staffing (“AHS”), another healthcare staffing company, in an identical or nearly identical position recruiting and placing Nurses and Nurse Practitioners. CHG also has learned that you improperly retained confidential client and provider contact information that you acquired during your employment and that you have been soliciting CHG’s clients and providers (collectively “Clients”) to do business with you at AHS. Your employment with AHS, retention of CHG’s information, and solicitation of CHG’s Clients constitute a direct violation of your Agreement. This letter is to remind you that you are subject to legally enforceable non-competition, non-solicitation and confidentiality provisions set forth in the Agreement. A copy of the Agreement is enclosed herein.

A. Non-Competition Agreement

In Section 5 of the Agreement, you agreed that during your employment and for a period of one (1) year following your separation from employment with CHG (until April 3, 2024), you would not directly or indirectly be employed by or otherwise render services to any person or entity that is engaged in or competes with the type(s) of staffing that [you] were engaged in at any time during [your] last three (3) years of employment with the Company.” You agreed that “types of staffing” include, without limitation, physician staffing, nurse staffing and allied staffing . . .” This means that you are contractually prohibited from recruiting, placing and staffing physicians and nurses, both on a permanent and locums basis, through at least



Rachel Shafer
July 14, 2023
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April 3, 2020⁴. However, it has come to CHG’s attention - through its Clients – that you have been contacting them on behalf of AHS and soliciting their business. This is precisely the type of competition that is prohibited by your Agreement, and your actions constitute a direct and material breach of your Agreement.

B. Confidentiality Agreement

In Section 4(a) of the Agreement, you agreed to not “at any time or in any manner, use any of [CHG’s] Confidential Business Information for any purpose other than as reasonably necessary in the performance of [your] duties for the Company and for the exclusive benefit of the Company.” You also agreed to not “at any time, both during and after employment with the Company . . . directly or indirectly, copy, disseminate, divulge, disclose, transfer or communicate any Confidential Business Information to any other employee or to any other person or entity except as reasonably necessary in the performance of Employee’s duties for the Company. “Confidential Business Information” is defined in Section 2 to include “information relating to current, former and prospective Clients (including without limitation names, addresses, telephone numbers, email addresses, mailing lists, contact persons, records of Client usage, preferences, requirements, job openings and staffing needs, rates, fees and compensation, licensing and credentialing information and requirements, contract terms and prospects), methods and types of recruitment and placement services, methods of service preferred by Clients . . . and other confidential and proprietary information of the Company.”

This means not only are you required to keep confidential information, such as client names, provider names, and contact information, among other things, confidential, but that you also cannot use this information to further your interests at AHS or to harm CHG subsequent to your separation from the Company. The fact that you have retained client and provider contact information and have been using it to place providers you worked with at CHG through AHS is a direct breach of your confidentiality agreement.

C. Remedies Including Injunctive Relief

Finally, pursuant to Section 10 (c) of the Agreement, you specifically acknowledged and agreed that “a breach of this Agreement by [you] ... will cause the Company to suffer irreparable damage and other damages beyond those that can be calculated.” You further agreed “that money damages would not be a sufficient remedy for a breach of this Agreement and that the Company shall be entitled to equitable relief, including, without limitation, injunctive relief and specific performance, as a remedy for any actual or threatened breach of this Agreement.” Should you continue to violate the terms of your Agreement by working for a competitor and continuing to solicit CHG’s clients during the restricted period, we will take appropriate legal action and seek all remedies available pursuant to your Agreement, in addition to those available by law.

* * *

CHG intends to enforce the terms of your Agreement. If you do not take immediate corrective steps to comply with your Agreement, CHG has instructed us to take all appropriate legal action and seek all remedies available to it by law. Among other things, CHG will ask the Court for entry of an order enjoining you from continuing to work for its competitor, AHS. We also will ask the Court to enjoin you from soliciting CHG’s clients and providers and from using its Confidential Business Information you retained in order to



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Page 3

do so. Finally, we will seek an order from the Court requiring you to pay damages to the Company for the harm your actions have caused, as well as other monetary losses, reputational harm, and other damages that may be revealed during the discovery process.

Please confirm in writing directed to me no later than **Friday, July 21, 2023**, that you will refrain from further violations of the Agreement. In other words, please confirm you will abide by your Agreement and that you will refrain from recruiting and/or placing physicians, nurses, physician assistants, pharmacists and allied health professionals of all specialties during the one (1) year restricted period and cease your employment with AHS until that time. We also require written confirmation from AHS that you have, in fact, provided it with a copy of the Agreement. **If we do not receive written confirmation from AHS that you provided it with a copy of the Agreement on or before Friday, July 21, 2023, we will provide AHS with a copy of the Agreement.**

Additionally, as you are now on clear notice of CHG's claims, you are hereby instructed to gather, preserve, protect, and not destroy all potentially relevant evidence in this matter, including, but not limited to, all documents, emails, and text messages regarding your communications with CHG clients during your employment with AHS and your communications with CHG's employees about their leaving to work at AHS. Your failure to do so may give rise to a claim for spoliation of evidence. Should CHG file a lawsuit, you can expect the Company to serve discovery requests on you seeking certain evidence, including evidence which may reside on your computers or that of any third party (including any servers, handheld/mobile devices, tablets or cell phones). To avoid spoliation, you will need to preserve data that may be relevant and that we may request on the original media. Do not simply make copies of files that you believe to be relevant or responsive to document requests.

Because electronic evidence can be modified, corrupted or deleted, you are hereby on notice of your obligation to take reasonable steps to preserve any and all potentially relevant electronic evidence. In particular, you must refrain from deleting or overwriting any hard drive(s), backup tape(s) and other mass storage media that may contain such evidence. You also must refrain from deleting text messages, emails and photos contained on computers, servers, handheld/mobile devices, tablets and/or cell phones which are owned and/or operated by you and/or any third party (or its owners, members, or principals) and/or which are used by you for business purposes.

The instructions contained in this letter should supersede any and all data or record retention policies maintained by you, AHS and/or any third party who has appropriated the information you have taken from CHG. Documents which would ordinarily be destroyed as part of a routine record management program (such as emails moved to the trash or deleted items folders) must now be preserved. If potentially relevant evidence exists in paper form, then you must keep, protect and maintain such documents, organized in the manner in which you would normally keep them for business purposes. Any and all potentially relevant documents should be kept, protected and maintained at a location within your control. Your counsel can further advise you about your legal duty to keep, protect and maintain potentially relevant evidence, as well as the severe consequences which can result should you fail to comply with such duty.

Finally, you must return to CHG, through me, by no later than **Friday, July 21, 2023**, any and all copies of documents, emails and other Confidential Business Information you took with you and retained after your employment ended, whether in hard copy or electronic form (including, but not limited to, all

JacksonLewis

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Page 4

customer lists and contact information and any written work product you prepared during your employment, such as agreements and details of placements, fees, and related information and/or terms with clients). You must include in the package a signed letter verifying that you have produced all CHG documents to me and that you are no longer in possession of any CHG information.

* * *

In view of the above, we ask that you immediately preserve the identified documents and electronically stored information and contact us by **Friday, July 21, 2023**, to discuss, in good faith, a plan by which you can fulfill your legal preservation obligations to CHG, as well as your contractual obligations under the Agreement. Should you fail to communicate with me by July 21, 2023, I will assume you have no intention of complying with your Agreement. In that event, CHG has instructed us to take all appropriate legal action against you to enforce your post-employment obligations under the Agreement. We hope that will not be necessary.

Sincerely,

JACKSON LEWIS P.C.



Jennifer A. Schwartz
Ranjiv Sondhi

JAS/RS/vp
Enclosure

cc: Nicholas Call, Esq.

DE 59

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-CIV-61703-SINGHAL

CHG MEDICAL STAFFING, INC, d/b/a)
RNNETWORK, a Delaware Corporation,)

Plaintiff,)

-v-)

RACHEL SHAFER, an individual,)
LISLEY ROSSI, an individual, AHS)
STAFFING, LLC, an Oklahoma Limited)
Liability Company,)

Defendants.)

Fort Lauderdale, Florida
October 31, 2023
10:10 a.m.

TRANSCRIPT OF PRELIMINARY INJUNCTION PROCEEDINGS

BEFORE THE HONORABLE RAAG SINGHAL

U.S. DISTRICT JUDGE

Appearances:

For the Plaintiff:

JACKSON LEWIS PC
BY: JENNIFER SCHWARTZ, ESQ.
BY: ADAM SCHULTZ, ESQ.
2 South Biscayne Boulevard
Miami, Florida 33131

For the Defendant:
Shafer

SHLOMO HECHT, ESQ.
3076 North Commerce Parkway
Miramar, Florida 33025

Reporter:
(954) 769-5496

Karl Shires, RMR, FCRR
Official Court Reporter
299 East Broward Boulevard, # 110B
Fort Lauderdale, Florida 33301

STENOGRAPHICALLY RECORDED COMPUTER-AIDED TRANSCRIPT

1 Appearances: (continued)

2 For the Defendant:
3 AHS Staffing, LLC

COLE, SCOTT, KISSANE PA
BY: JUSTIN MAYA, ESQ.
BY: HORACIO RUIZ-LUGO, ESQ.
9150 South Dadeland Boulevard
Suite 1400
Miami, Florida 33156

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I N D E X

WITNESS PAGE

ELEONORE RUFFY, PLAINTIFF'S WITNESS, SWORN35
 DIRECT EXAMINATION BY MS. SCHWARTZ35

AMY REED, PLAINTIFF'S WITNESS, SWORN106
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 CROSS-EXAMINATION BY MR. HECHT114
 REDIRECT EXAMINATION BY MS. SCHWARTZ121
 RECROSS-EXAMINATION BY MR. HECHT122

KEELA BRILES, PLAINTIFF'S WITNESS, SWORN123
 DIRECT EXAMINATION BY MS. SCHWARTZ123
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EXHIBITS RECEIVED

PLAINTIFF'S EXHIBIT(S) 1049
 PLAINTIFF'S EXHIBIT(S) 261
 PLAINTIFF'S EXHIBIT(S) 562
 PLAINTIFF'S EXHIBIT(S) 1373
 PLAINTIFF'S EXHIBIT(S) 1278
 PLAINTIFF'S EXHIBIT(S) 1981
 PLAINTIFF'S EXHIBIT(S) 1583
 PLAINTIFF'S EXHIBIT(S) 2085
 PLAINTIFF'S EXHIBIT(S) 1187
 PLAINTIFF'S EXHIBIT(S) 2390
 PLAINTIFF'S EXHIBIT(S) 992
 PLAINTIFF'S EXHIBIT(S) 893
 PLAINTIFF'S EXHIBIT(S) 26114
 PLAINTIFF'S EXHIBIT(S) 22132

1 (Call to Order of the Court.)

2 THE COURT: Okay. We're here this morning on CHG
3 Medical Staffing, Incorporated versus Rachel Shafer, et al.
4 We're here for a preliminary injunction hearing. And let me
5 begin by getting appearances, please.

6 MS. SCHWARTZ: Jennifer Schwartz and Adam Schultz from
7 the law firm of Jackson Lewis on behalf of the plaintiff CHG
8 Medical Staffing. And with us is our corporate representative
9 and witness Eleonore Ruffy, who is the vice president at
10 RNnetwork.

11 THE COURT: Great. Nice to see you all here this
12 morning.

13 And how about for the defense?

14 MR. HECHT: Good morning, Your Honor. This is Sam
15 Hecht on behalf of the defendant Rachel Shafer. And Rachel is
16 along with me.

17 THE COURT: Good morning. Good morning.

18 MR. MAYA: Good morning, Your Honor. Justin Maya and
19 Horacio Ruiz with Cole, Scott, and Kissane on behalf of the
20 codefendant AHS Staffing, LLC.

21 THE COURT: Great. Okay. Good to have all of you
22 with us.

23 Of course with regard to Lislely Rossi, there was a
24 consent judgment type of document that was entered I guess late
25 last week I would think.

1 So with regard to today's hearing, I do have witness
2 lists and exhibits that I printed last night. I see some other
3 ones that are up. These seem to be the same ones. Nothing new
4 came in since last night though, right, either side?

5 MS. SCHWARTZ: No, Your Honor.

6 THE COURT: Okay. Great. With regard to the
7 witnesses and kind of the plan going forward, any idea before
8 we start in terms of a time frame? I know you had asked for a
9 day and a half to two days.

10 In all candor, here's why I'm asking. The last one
11 that we did, they asked for five hours and it took four days.
12 I really would like to kind of narrow things down as much as I
13 can. I know you all have your jobs to do. But to the extent I
14 can help with that, if there's any parameters or anything we
15 can set, I am happy to do that. What do you think?

16 MS. SCHWARTZ: Well, Your Honor, we actually this
17 morning reached a resolution with AHS Staffing. And so I think
18 part of the reason I believe this would take so long is because
19 there were three different lawyers -- at one point four
20 different lawyers that were going to be cross-examining the
21 witnesses.

22 THE COURT: Okay.

23 MS. SCHWARTZ: So with this resolution that we'll put
24 on the record in a moment, now I think that will streamline
25 proceedings and hopefully get us out of here in one day.

1 THE COURT: Okay. And listen, I'm not going to -- I
2 guess to the chagrin of many of my colleagues, I'm not one who
3 rushes people. So I'm not trying to say that. But I just
4 wanted to, at the outset, see if there's anything that I can do
5 to help.

6 Okay. So then why don't you, Ms. Schwartz, talk to me
7 about the resolution. And then once you and I guess Mr. Maya
8 have put that on the record, we can move forward with just CHG
9 versus Rachel Shafer.

10 MS. SCHWARTZ: Do you want me to go?

11 MR. MAYA: Good morning, Your Honor. I just want to
12 quickly call to the Court's correction a minor correction that
13 needed to be noted to docket entry 36 --

14 THE COURT: Sure.

15 MR. MAYA: -- which is AHS' response in opposition to
16 the preliminary injunction.

17 Your Honor, in that response we took the position,
18 assertion that at the time of the interviews, at the time of
19 hiring, that AHS did not know of the noncompetes. Since that
20 filing, Your Honor, that is no longer accurate. So I just
21 wanted to call to the Court's attention that there needs to be
22 a correction to that docket entry 36.

23 And as the Court probably saw, much of the response
24 was dedicated to this lack of knowledge. Plaintiff and I have
25 agreed to terms to stipulate to narrow the issues before the

1 Court today. Those include the plaintiff identifying -- or
2 this is my understanding.

3 MS. SCHWARTZ: Do you want me to put it on the record?

4 MR. MAYA: Yes.

5 MS. SCHWARTZ: Okay. So the resolution reached
6 between the plaintiff and AHS Staffing is that AHS Staffing
7 will agree to the entry of a preliminary injunction at this
8 time prohibiting the company from using, disclosing,
9 transferring, and retaining any of the documents and
10 information that Rachel Shafer had provided to it and/or
11 uploaded to its systems.

12 And the parties had agreed that in order to locate
13 that information, we will agree to search terms and to have
14 AHS' systems searched either by its own internal IT department,
15 Cole, Scott and Kissane, or an outside forensic consultant, and
16 the parties will determine amongst themselves which is more
17 economically feasible to do.

18 THE COURT: Okay. And then you'll do some kind of
19 confidentiality agreement or something like that, or that's not
20 necessary since you're going to do it internally?

21 MS. SCHWARTZ: We may need to do a stipulated
22 confidentiality agreement and --

23 THE COURT: So typically on those, just so you know,
24 you all will submit them. We tend to look at them in case
25 there's formatting issues. But we rarely change any words in

1 terms of a stipulation on a confidentiality agreement. So
2 whatever you all agree to, if you just submit that, we'll go
3 ahead and get that in as a docket entry.

4 MS. SCHWARTZ: Okay. Thank you.

5 THE COURT: Sure.

6 Okay. Then let me do this. How does that affect
7 Rachel Shafer or does it not affect Rachel Shafer in terms of
8 your presentation here today? Because, obviously, you're
9 learning about this for the first time as well.

10 MR. HECHT: Yes, Your Honor. At this point we don't
11 see any way it's going to affect us, so we don't have a reason
12 to object.

13 THE COURT: Okay. So we're good to go forward just in
14 that way.

15 With regard to you, I guess the team for AHS, are you
16 still going to be involved in the hearing? I mean, I don't
17 need you to stay here if you don't think you need to be here.
18 I know a lot of times people will stay until the judge says
19 you're excused. So I guess that's really what I'm trying to
20 get at.

21 MR. MAYA: Your Honor, we won't be, I don't think,
22 participating, but --

23 THE COURT: You're going to monitor.

24 MR. MAYA: -- if you don't mind, if we can just
25 monitor.

1 THE COURT: Okay. No worries then.

2 All right. Then given all of that I guess,
3 Ms. Schwartz, you'll just present some things in written form
4 over the next couple days, or if not -- I'm not saying today,
5 because you're going to be in court all day, but you'll just
6 provide that to me as soon as you can?

7 MS. SCHWARTZ: Yes, Your Honor. We'll prepare an
8 agreed-upon preliminary injunction order similar to what we've
9 submitted for Ms. Rossi, although that one was permanent.

10 THE COURT: Yes. Okay. Then I have in front of me
11 plaintiff's witness and exhibit lists. I have the defendant's
12 exhibit list and witness list.

13 So the last thing before we start up that sometimes
14 helps is with regard to the exhibit lists, obviously it's
15 understood that you all will be calling witnesses that will
16 talk about these exhibits, but many times there aren't
17 objections to the exhibits or there aren't objections to many
18 of them. Have you all gone through those just to figure out
19 whether they're all objected to, all un-objected to, anything
20 like that?

21 MS. SCHWARTZ: No, Your Honor. I did request on a
22 couple of occasions that Mr. Hecht meet with me in advance of
23 the hearing today to go through the exhibits, but he did not
24 respond to those requests.

25 THE COURT: I mean, a lot of times on this type of

1 hearing it's difficult to do that. But I just --

2 Mr. Hecht, any idea with regard to plaintiff's exhibit
3 lists? You just want to hear it and go as we go or do you
4 think there's maybe a wholesale no objections and that can
5 streamline what they offer as well? What's your thought?

6 MR. HECHT: Your Honor, our initial thought is the
7 Court ordered by last Friday for all the parties to file their
8 witness and exhibit lists. We did ours. We filed. We
9 redacted and uploaded our exhibit list. They haven't. And we
10 haven't received prior to this hearing any of their exhibit
11 lists. So we are not really sure -- and that's actually
12 prejudicing us to some degree because I could not review them
13 with my client or prepare for any response to those exhibits.
14 So we are at somewhat of a disadvantage starting this hearing
15 without really knowing what all of the exhibit are.

16 THE COURT: So did you see docket entry 44? That's
17 the plaintiff's witness and exhibit lists. It was filed
18 actually almost at the same time as yours.

19 MR. HECHT: Yes, Your Honor. We saw the lists, but we
20 didn't see the actual documents, the actual exhibits itself.

21 THE COURT: All right.

22 MS. SCHWARTZ: If I may briefly respond, Your Honor.

23 THE COURT: Well, you can respond, although as I look
24 at it, I mean, it's the defendant's pay records, the
25 defendant's employment agreements, emails from the defendant.

1 And when I say "defendant," I'm talking about Ms. Shafer.

2 I mean, certainly if the exhibits included some
3 internal documents that you all have that Ms. Shafer isn't
4 copied on, that's one thing. But I mean --

5 Mr. Hecht, before I get a response, talk to me
6 specifically about which ones you feel you would need to see
7 that aren't already in your possession.

8 MR. HECHT: So Exhibit No. 1 is pay records. We don't
9 know what pay records they're referring to and how they want to
10 use it and whether it's accurate or not. So we haven't seen
11 that.

12 We don't have the -- number 4, the performance
13 improvement plan that was emailed 2/17. We don't have a copy
14 of that.

15 We don't have number 8, email from Alaina Robertson to
16 Chrissy Evans, nurses leaving to work, that was dated 7/14.

17 We don't have number 9. Also, an email 7/14, which
18 seems to be an internal email.

19 We don't have -- I don't believe we have number 10,
20 which is email from Eleonore Ruffy to Kerry Black.

21 We have an email dated I believe -- they referencing a
22 an email dated March 28, '23. We don't have that email. We
23 have another email that's dated March 23, not March 28. We're
24 not sure if they're referring to the same one. But email dated
25 March 28 we don't have.

1 THE COURT: Okay.

2 MR. HECHT: And same thing. We have an email dated
3 March 9, but we don't have number 12, which is an email dated
4 March 10.

5 And the same applies to March 14 and 15. We don't
6 have 14. We don't have 15.

7 And we don't have the email March -- number 16, the
8 email dated March 15, '23.

9 The same thing with -- so we have an email with some
10 text messages from March 12th. I'm not sure why those -- we've
11 seen some text messages that they have attached to their
12 preliminary injunction, but we're not sure if those are the
13 same that we are referring to here because those text messages
14 do not have an email date on it.

15 Same with 21.

16 Same with 22, which is an internal email dated
17 August 9, which we don't have.

18 Exhibit No. 23, an email dated August 30, which is
19 also an email we don't have.

20 We don't have 24.

21 25 says generically "AHS Website." AHS is a large
22 website, and we don't know exactly which portion of the website
23 they're trying to use and for what use they want to make out of
24 the information on that website.

25 Number 26, they're some screenshots of computer

1 property we haven't seen. We don't know what they are.

2 Same thing number 27, an email from Nela De La Vega,
3 dated March 7. We haven't seen this email.

4 And there's a text message in number 29 between Lisley
5 Rossi and SG dated 6/20. We have seen some text messages that
6 were attached to the complaint. We're not sure if it's the
7 same or they're referring to a different text message.

8 Number 30. We have an attachment to one of our emails
9 that has this -- that has a similar filing, but we're not
10 sure -- we haven't seen this particular file, what they are
11 referring to for "RS W&A Week 6 2023."

12 I believe we have seen 31 because we have a file with
13 the same name. But we are -- again, we're not sure if the file
14 that they are presenting differs from the file that we have.

15 I believe, actually, right before this hearing I had a
16 brief conversation with opposing counsel, and it does seem that
17 there's a discrepancy between the two files based on our
18 conversation and based on their filings as well. So I'm not
19 sure exactly what their -- how their file looks like and how
20 to -- and how it differs from ours.

21 And then there is an affidavit from Lisley Rossi. I
22 believe we have seen an affidavit that they filed yesterday in
23 reply. I'm not sure if this is the affidavit that they're
24 referring to or if there's another affidavit.

25 So, yeah, that's -- these are the exhibits that they

1 have identified, we haven't seen, and we are completely
2 prejudiced by not being able to prepare a response to those.

3 THE COURT: Okay. And then in light of all of that,
4 now, Ms. Schwartz, response.

5 MS. SCHWARTZ: Okay. Your Honor, the order required
6 the parties to file their witness and exhibit lists, which is
7 standard in these restrictive covenant cases. It did not order
8 an exchange of exhibits. Nevertheless, as I always do in these
9 cases, I invited Mr. Hecht to meet with me in advance of today
10 to go through the exhibit so we could stipulate to the
11 admissibility of them. He did not respond to my invitations to
12 do that. I tried to do it right before we began. He said we
13 wouldn't have enough time.

14 But I think we basically agree that there shouldn't be
15 really any objections because all of the documents are things
16 that either Ms. Shafer had or sent to herself or were given to
17 her at some point in time, with the exception of maybe a
18 couple, and I just don't think that it should create much --
19 any sort of delay. Because when you see them, it's documents
20 that are obvious as to what they are and that she had them at
21 some point. There really wouldn't be a basis for objecting to
22 their admissibility.

23 THE COURT: All right. So a couple things. When you
24 filed this witness list, certainly the expectation was this
25 hearing was going to be against three different defendants.

1 It's now proceeding against one defendant. So right off the
2 top it may not be that you're going to use all 38 of these
3 exhibits.

4 MS. SCHWARTZ: Right.

5 THE COURT: And so certainly some of the ones that
6 were identified just now by Mr. Hecht may not even be ones that
7 you use. So I think the best course would be -- it would be
8 just to move forward.

9 Mr. Hecht, as each document is going to be used, if it
10 is, you raise your objection, and I'll deal with them
11 individually with regard to just the context in terms of how
12 they come in.

13 But again, let's see, let's see which ones actually
14 are going to be used and which ones aren't, and we'll kind of
15 move forward from that.

16 MS. SCHWARTZ: One other housekeeping item, Your
17 Honor, is that Mr. Hecht did file exhibits with his exhibit
18 list.

19 THE COURT: Yes.

20 MS. SCHWARTZ: And he filed exhibits that did not
21 redact some of my client's confidential and proprietary
22 information that does not belong in the public record. And we
23 had considered filing a motion to strike that. And I'm not
24 sure if that is the most appropriate way to remove that data
25 from the public filing.

1 THE COURT: So what we can do -- I think you would
2 have to file something. What we can do is basically enter an
3 order that keeps the public from getting access to this --
4 well, it keeps everybody from getting access to this document.

5 And then, Mr. Hecht, what you can do is refile the
6 exhibits under seal. And then that way you all could get
7 access to it, but nobody else can. That would be the normal
8 way that we would do it to the extent that you agree that it's
9 proprietary type of information.

10 MR. HECHT: Your Honor, I just wanted to quickly
11 respond to that. We did take painstaking steps to make sure to
12 redact all the information we saw we thought was confidential,
13 like all the names, emails addresses, locations. I'm not sure
14 exactly which information she claims are still confidential
15 that are left there, but certainly our intent was not to
16 disclose anything that they deemed confidential. And I'm sure
17 if she points out to me what those are, we can come to an
18 agreement to file them under seal.

19 THE COURT: Sure. You know, I'm not making any
20 decision based on the argument in terms of, hey, did you do
21 something nefarious. I don't think that's what's happening
22 here. I think basically it's just -- for example, in a lot of
23 cases we'll have documents that are filed and it has someone's
24 Social Security number on there. And people have redacted all
25 sorts of things, but they just missed something. So it

1 could -- that's kind of how I'm viewing it. So if you all
2 would talk about it.

3 But we do have a procedure where we can take care of
4 it. Unfortunately, it's a little more complicated than it
5 sounds. But this wouldn't be the first case that it's
6 happened. It happens every couple weeks on something.

7 Okay. Then given all of that, do you want to give
8 me -- you don't have to -- like a brief opening, each side, or
9 do you want to just jump right into a witness? What's your
10 collective preference?

11 MS. SCHWARTZ: I would like to do a brief opening.

12 THE COURT: Okay. So we'll do that.

13 And then, Mr. Hecht, if you want, you can also give me
14 a brief opening or we can just go from the initial opening into
15 the witnesses. You decide after her opening. Okay?

16 MR. HECHT: All right.

17 MS. SCHWARTZ: I will now be even more brief that I
18 don't have to address AHS. And I might accidentally. So I
19 apologize, but I'll try not to.

20 We are here this morning seeking the entry of a
21 preliminary injunction enjoining the defendant Rachel Shafer
22 from using, disclosing, and retaining the trade secrets and
23 confidential information that she misappropriated from her
24 former employer, the plaintiff, RNNetwork and enjoining
25 Ms. Shafer from continuing to violate the terms of her

1 noncompetition and her non-solicitation agreements with the
2 plaintiff.

3 This case involves the theft of significant employer
4 trade secrets in a highly competitive industry by former
5 employees and their -- it had been about their new former
6 employer AHS' use of the stolen information for its own profit.

7 We have evidence that we are ready to present today,
8 Your Honor, that will establish the following facts:

9 The plaintiff RNnetwork is a travel staffing nurse --
10 is a travel nurse staffing company. They place nurses in
11 temporary positions all throughout the United States, and these
12 positions usually last about three months at a time. So the
13 relationships in this industry are critical because the
14 placements are short-term and the nurses are frequently looking
15 for new jobs. That is why noncompete and non-solicit
16 agreements are standard in this industry.

17 The evidence will show that the individual defendants,
18 Rachel Shafer and Lisley Rossi, are former employees of
19 RNnetwork. Ms. Shafer -- I'll just refer to Ms. Shafer since
20 Ms. Rossi is no longer a part of the proceedings. Ms. Shafer
21 was employed from more than a decade, and she had received
22 significant training in the nurse staffing industry,
23 particularly because she had no experience in this industry
24 before her hire.

25 She received a promotion to the position of senior

1 health care recruiter, and she signed an employment agreement
2 containing noncompete, non-solicit, and confidentiality
3 provisions, and that she was required to sign this agreement as
4 a condition of her employment.

5 Recruiters in this industry, and particularly those
6 hired by RNNetwork, and most likely AHS Staffing, are required
7 to sign these agreements because as recruiters they are given
8 access to highly confidential trade secret information,
9 including access to RNNetwork's secure database which contains
10 basically the entirety of its business. All of its clients'
11 names and nurses' names, contact information, their
12 preferences, their rates that they charge, their contract
13 terms, their financial data, and spreadsheets of data that is
14 honed and refined over the course of many, many years, not just
15 by them in particular, not just by Ms. Shafer, but by all of
16 the employees who work for RNnetwork, everything that a
17 competitor in this industry would pay high dollars to get
18 within a matters of minutes. And this is after RNNetwork paid
19 its employees and spent significant resources, financial
20 resources to develop these trade secrets.

21 You will hear testimony and see evidence today
22 demonstrating that Ms. Shafer did, in fact, misappropriate
23 significant company trade secrets just before she joined direct
24 competitor AHS Staffing.

25 The evidence will show that Ms. Shafer took

1 spreadsheets of documents that she compiled from information
2 that was maintained in RNnetwork's database with client and
3 provider lists organized into an Excel spreadsheet so that it's
4 easily searchable and you could find what states they work in,
5 the specialties that they work in, their email addresses, their
6 shift preferences, the gross margins that RNNetwork would make,
7 the rates that they would charge the health care facilities
8 they place them in, and more. Not just for the nurses
9 Ms. Shafer placed, but for thousands of nurses, over 2,000
10 nurses over the course of a 60-day period.

11 And this is not information that you can find in a
12 Google search. It's not publicly available anywhere on the
13 Internet. This information can only be derived from
14 conversations and years of experience working with these
15 nurses.

16 The evidence will show that as soon as Ms. Shafer
17 realized her job with RNnetwork was in jeopardy, she
18 immediately began transferring spreadsheets of this data to her
19 personal email account. And again, this data identifies even
20 which clients used travel nurses, something that is not easy to
21 determine without work and conversations and time and effort,
22 and in which locations and which specialties. She took
23 spreadsheets that were generated from information that she and
24 other employees worked on over many, many years for RNNetwork.

25 The evidence will show that despite signing the

1 noncompete agreements prohibiting her from working for another
2 nurse staffing company for only a period of 12 months,
3 Ms. Shafer accepted a nurse recruiter job at AHS Staffing
4 within weeks of her separation. And although that alone
5 constitutes a breach of her agreement, the fact that she took
6 trade secrets with her and used those trade secrets to divert
7 RNNetwork's nurses to AHS makes it far worse. And the evidence
8 that we have today will show that that is in fact what
9 occurred.

10 So while RNNetwork has been able to resolve the
11 dispute with Ms. Rossi and now with AHS, Ms. Shafer still
12 refuses to return the information that she wrongfully took, and
13 she refuses to abide by the restrictions in her agreement. And
14 even though we understand that she's now been terminated from
15 AHS, she has made it very clear that she's not going to abide
16 by those agreements and she's going to seek another job working
17 in the nurse recruiting industry using the information that she
18 should not have in her possession. So the defendant's conduct
19 has left RNnetwork with no option but to file the instant
20 action and to seek preliminary injunctive relief from the
21 Court.

22 And, Your Honor, we do realize that injunctive relief
23 is an extraordinary remedy, but it is warranted here. And in
24 these circumstances, given the significant confidential
25 information and trade secrets that Ms. Shafer took and the

1 breach of her valid and enforceable agreement, irreparable harm
2 is presumed both under Florida law and Utah law, whichever law
3 that we're operating under today. Both state laws are very
4 similar. And in other cases where I've had injunction hearings
5 in Florida courts on behalf of this client, typically the
6 parties have agreed to just proceed under Florida law.

7 In any event, an injunction is necessary because my
8 client needs to get its data back and to stop Ms. Shafer from
9 using it and creating further damage. We've already seen
10 significant loss.

11 So for that reason, in addition to an injunction, Your
12 Honor, we also are requesting an order that Ms. Shafer be
13 required to turn over her personal devices and cloud storage
14 accounts to an outside third party neutral forensic consultant
15 who can image the devices and conduct a search for and
16 permanently remove RNnetwork's information from her possession
17 pursuant to an agreed upon stipulated forensic protocol.

18 Thank you.

19 THE COURT: Thank you, Ms. Schwartz.

20 Mr. Hecht, would you like to give a brief opening?

21 MR. HECHT: Sure.

22 THE COURT: Okay.

23 MR. HECHT: Good morning, Your Honor.

24 THE COURT: Good morning.

25 MR. HECHT: Ms. Shafer has been working for the last

1 17 years, pretty much her entire adult life, as a nurse
2 recruiter. She has dedicated all of her time, effort, and
3 energy into recruiting nurses for RNN. In fact, we will
4 present evidence to show that not only did she do a good job
5 for RNN, she excelled in her position. She became the number
6 three nurse recruiter in the company. She earned a significant
7 amount of money both for RNN and as her earned commissions.
8 And she was constantly awarded for her performance in the
9 company.

10 So the question is why did RNN fire Ms. Shafer. They
11 fired her. We are not talking here about an employee that just
12 decided to one day quit, take information with her and start
13 stealing and competing with RNN. We're talking here about the
14 firing. So the question is why did they fire her.

15 And, Your Honor, the answer is because Ms. Shafer is a
16 disabled individual. Ms. Shafer has a mental disability. We
17 will hear testimony today. She's been diagnosed. She's being
18 treated for that disability. And, in fact, in February 2023,
19 just one month before they fired her, she made an official
20 request to the company for an ADA accommodation because of her
21 disability.

22 And what happened after she made the request for the
23 ADA accommodation? The company did not take it well. They
24 dismissed her request. They gave her a whole bunch of forms to
25 fill out, and they immediately denied it. And within a matter

1 of weeks after she made that request, her employment was
2 terminated for no valid reason. She was still on top three
3 performing. She was still top three performing for the
4 company.

5 Plaintiff itself acknowledges that she did a few
6 million dollars in sales in the last year that she was working
7 there. There was no deterioration of her performance. The
8 only reason, the only valid reason or the only illegal reason
9 that they used to terminate her employment is because she made
10 an ADA accommodation request.

11 And Ms. Shafer, in fact, filed a complaint with the
12 EEOC. There is currently a complaint with the EEOC pending for
13 wrongful termination under the ADA statute, and it's still
14 being reviewed.

15 So we ask this Court to see what is really happening
16 here. This is not a company trying to protect trade secrets.
17 As we will show later, all these documents that they claim
18 Ms. Shafer took that supposedly are alleged trade secrets,
19 these are commission documents that she got. In fact, she got
20 paid with commissions every week. That was the majority of her
21 salary. Almost 90 percent of what she earned in that company,
22 \$600,000 in the year 2022, was commissions that she earned from
23 nurses that she recruited.

24 Ms. Shafer was sent these documents on a weekly basis
25 so she can keep track exactly what nurses she recruited, how

1 much -- where these nurses worked, what their pay rate was,
2 what's the gross margin, because her commission directly
3 dependent on it.

4 And, in fact, we will show evidence here that on
5 numerous occasions RNN underpaid her. They didn't give her her
6 full commission. And the only way she was able to recover her
7 full commission was through those documents, through those
8 commission reports Ms. Shafer received on a weekly basis where
9 she was able to point out, hey, here's a nurse you didn't pay
10 me, what's going on. And we will see here documents on the
11 record, evidence, that in some occasions they acknowledge that
12 they made mistakes, and they paid her. At some point it was
13 like nine or \$10,000 they underpaid her in one week.

14 So Ms. Shafer had a legitimate, a legitimate need for
15 these documents. And the documents that she got were only
16 documents that were related to the nurses she recruited. All
17 of the documents were related to the pay that her nurses
18 received from which she would receive a commission.

19 And, Your Honor, the most outrageous fact that we
20 gonna show here today also is that on May 1st, which is more
21 than a month after they terminated Ms. Shafer's employment,
22 they still continued to send to her personal email account
23 those same commission sheets with all the list of nurses that
24 now they're claiming these are confidential trade secrets that
25 she so nefariously tried to steal. If they really thought that

1 she was stealing secrets with those documents, why would send
2 it to her in May after they terminated her employment and they
3 knew she's no longer working for them.

4 So we ask the Court to find that -- they're not trying
5 here to enforce a noncompete agreement. They know Ms. Shafer
6 is not competing with them. Ms. Shafer didn't take any secrets
7 from them. Ms. Shafer is not abusing or misusing any of their
8 trade secrets. This is just harassment and intimidation for
9 her EEOC complaint that she filed, and this is the way to get
10 back at her.

11 Now, let's move over to the actual allegations of what
12 they are complaining. They're complaining -- their entire
13 complaint is based on two premises. One, they have certain
14 emails where Ms. Shafer sent herself these documents before she
15 was terminated. And as we have already presented to this
16 Court, these documents had a legitimate need for Ms. Shafer.
17 She had a legitimate need for that to reconcile her
18 commissions. These were not trade secrets from the company
19 that were not related to her commissions.

20 But more importantly, Your Honor, they have to
21 allege -- they're alleging that she misused those trade secrets
22 based on some anonymous caller. They don't have -- they didn't
23 present any proof or they won't be able to present any proof
24 today that Ms. Shafer actually misused any trade secrets at her
25 new employ. The only thing they rely on is an anonymous

1 caller. They cannot identify who this caller is. We don't
2 even know if such a caller exists. But what we do know, Your
3 Honor, is every single fact that they are quoting this
4 anonymous caller is false.

5 Supposedly the anonymous caller told them that
6 Ms. Shafer has recruited 80 nurses. That's a far cry from the
7 truth. Supposedly they claim that Ms. Shafer has recruited 43
8 per week. That's a far cry from the truth. In reality, she's
9 recruited maybe a total of 15 nurses, and maybe four or five
10 per week. That's what you're going to hear the testimony from
11 Ms. Shafer today to show that whatever this anonymous caller
12 they rely on is definitely not accurate on the facts, if that
13 person even exists.

14 The facts will also show here that when Ms. Shafer did
15 get to her new employ, the new employer had lists of nurses.
16 The new employer had databases that they used that they have
17 established themselves through their own network of nurse
18 recruiters. The facts will show Ms. Shafer was able to utilize
19 publicly available websites that are specifically designed to
20 find nurse recruiters, and that's what she utilized to get new
21 nurse recruiters for the new company. She has -- in fact, they
22 won't be able -- they cannot produce and they have no -- they
23 have not alleged any plausible allegation that Ms. Shafer
24 misused any of their confidential trade secrets.

25 Now let's move onto the preliminary injunction and the

1 type of relief that they're looking for today. Your Honor,
2 they're suing under a contract. That contract has clearly a
3 Utah clause in it. And, therefore, they have absolutely no
4 basis to move for this complaint or for the preliminary
5 injunction under Florida law. Florida law does not apply here.
6 The parties agreed to Utah, and there's absolutely no
7 reasonable basis why the Court should not bind the parties to
8 their agreement.

9 And under Utah law --

10 THE COURT: Let me ask you this. So your argument is,
11 with regard to that, that the case should stay here but that
12 the Court should apply Utah law?

13 MR. HECHT: That is correct, Your Honor.

14 THE COURT: Okay.

15 MR. HECHT: Although we did have -- the Court pointed
16 out in its most recent decision we could have moved to transfer
17 it. But the parties are allowed to waive the forum. And we
18 waived the forum enforcement clause, but we're not waiving Utah
19 law. So we still want to proceed on the Utah law.

20 THE COURT: Okay.

21 MR. HECHT: So under Utah law, there are a few
22 critical points that are very relevant to this case. Number
23 one on the Utah law, Utah law does not allow -- as a matter of
24 law does not allow noncompete agreements for a common calling.
25 In other words, under Utah law the only type of employment that

1 a noncompete agreement can be enforceable. The language that's
2 used by Utah Courts is that it has to be unique, special, or
3 extraordinary skills. And, Your Honor, we are positing here
4 today that a nurse recruiter is not unique, not special, nor
5 does it require any extraordinary skills. It's a simple
6 recruitment job.

7 And, Your Honor, we have cited in our brief many cases
8 in Utah, as well as other jurisdictions, where they
9 specifically found that -- there's a Utah case that talks about
10 medical staffers, that they are not unique, special, or
11 extraordinary. And we have also a case that's on point, which
12 is the Nursing Enterprises, Inc. v Marr, where it was almost
13 identical to the allegations in this case. It was a nurse
14 recruiter that went out competing, and they also alleged that
15 she stole lists of nurses and she used their financial
16 information and whatnot. And the Court found there that that
17 noncompete agreement was not enforceable.

18 So we ask the Court if the Court finds that Utah law
19 governs this relationship between the parties, if Utah law
20 governs the noncompete agreement, under Utah law such a
21 noncompete agreement is not enforceable.

22 Also under Utah law there's a specific -- there's
23 specific body of case law that applies in Utah, and it also
24 applies in a lot of different jurisdiction, where it says that
25 any noncompete agreement that's in the restriction of medical

1 services to the public is strongly disfavored and it's against
2 public policy. We have cited to a few cases on that point in
3 our brief as well.

4 We are asking this Court -- when the Court does the
5 analysis about issuing a preliminary injunction, the first step
6 the Court has to take into account is the likelihood of
7 success. Given the Utah case law about the strict requirements
8 that a job with a common calling is not enforceable, given the
9 Utah case law that they have to show that there is unique,
10 extraordinary skills by the employee in order to enforce a
11 noncompete agreement, we ask this Court to find that there is a
12 very low likelihood of success on the merits by the end of the
13 day.

14 And speaking about success, Your Honor, we are also
15 citing to a case that establishes a higher degree of likelihood
16 of success that is required when the type of relief they're
17 seeking is affirmative relief. Your Honor, one of their
18 requests that they are making here is to get access to
19 Ms. Shafer's personal devices and Ms. Shafer's -- all of her
20 personal data. That's a request for affirmative relief, Your
21 Honor. And we ask the Court to find that they have to
22 establish it to a much higher degree.

23 Number two, they have to show that there is
24 irreparable harm. Your Honor, that's a major flaw in this
25 case. They have alleged harm from lost sales, harm to

1 reputation and goodwill. Your Honor, we are citing cases that
2 this is -- the exact type of harm, arm of law sales, are
3 monetarily compensated. And the arm of potential loss of
4 reputation and goodwill is not a concrete harm that entitles
5 them to injunctive relief. This is also something that can
6 monetarily be compensated. And this is especially true in this
7 case.

8 This case here, Your Honor, she -- there is no
9 dispute. AHS terminated Ms. Shafer's employment as of
10 October 20. Ms. Shafer currently is unemployed. She's not
11 working at the moment. So what is the imminent and irreparable
12 harm they are seeking to enjoin Ms. Shafer from? There is no
13 imminent or irreparable harm they can prove in this case.

14 And then, Your Honor, there is the balance of the
15 equities here. And I think this is something that's really
16 important to point out here. Ms. Shafer has been working her
17 entire adult life as a nurse recruiter. She excelled in that
18 position. She has no other position, no other job that she can
19 do. And the plaintiff in this case fired her. She didn't
20 willfully quit. She didn't decide one day to just move on and
21 go off and compete with them. Plaintiff fired Ms. Shafer. And
22 we posit that they fired her for an invalid illegal reason,
23 that is, because she asked for an ADA accommodation as we have
24 demonstrated in the charge that we filed with the EEOC.

25 So we ask the Court to find the balance of the

1 equities, that it's extremely unfair. When you have an employer
2 that fires an employee and then the employee doesn't even have
3 at the moment another job, to go and say we going to enjoin you
4 for the next 12 months that you cannot earn a decent living.

5 And lastly, the Court has to look at the public
6 policy. And we ask this Court to take notice of Utah law.
7 That when it comes to public policy, the restriction of medical
8 staffers, which is a health -- they're providing health needs
9 to the public, is strongly disfavored and it's against public
10 policy of the Utah law.

11 So based on all of these, we ask the Court to deny
12 their motion.

13 THE COURT: All right. Mr. Hecht, thank you for your
14 opening as well.

15 My initial thought, but before we get into the
16 witnesses, is -- and I have read all of the papers that you
17 both have filed. But with regard to the EEOC complaint and
18 with regard to the ADA action that you're talking about, that
19 seems to me to be separate from the issue in the following
20 sense.

21 Assuming that everything you say is 100 percent
22 correct, and assuming that everything that Ms. Schwartz says is
23 100 percent correct, we still have a problem here. The fact
24 that your client may have been terminated because there's an
25 ADA issue that plaintiff didn't want to make a reasonable

1 accommodation for wouldn't allow her to still take confidential
2 business information if all of those findings were made.

3 So I do want to kind of make sure we do stay focused
4 on the purpose of the hearing. Obviously, I'll allow you to
5 say, look, here's the reason why the case is here. But I don't
6 know how much we need to get into the ADA part. But that's --
7 I'm not going to tell you how to try the case. I'm just saying
8 I view it as two completely separate cases, if you will. Does
9 that make sense?

10 MR. HECHT: Yes. Your Honor, I just want to point
11 out, though, that you may take into account -- I mean, do the
12 balance of the equities, that it may fall into that category.

13 THE COURT: Okay. Well, what I am saying is I will
14 consider it, but I don't necessarily want you to devote a huge
15 portion of your questions to the ADA portion of it because, you
16 know, I take you at your word that there's an issue out there,
17 there's a pending EEOC complaint. Obviously, I'm not going to
18 say that plaintiff agrees with the ADA part. But I just -- I
19 think that even if the ADA part is a hundred percent correct,
20 that doesn't entitle her to take confidential business
21 information if they're able to prove that. Make sense?

22 MR. HECHT: Yes.

23 THE COURT: Okay. Same goes for your side. I'm
24 viewing them as two separate cases almost.

25 MS. SCHWARTZ: Yes, Your Honor.

1 THE COURT: Okay. Then I guess you can call your
2 first witness.

3 And then with regard to the Utah law issue, we can
4 deal with that at the close of the case. Because a couple
5 things that I would want to know also with regard to that are
6 if there's a covenant or a restrictive covenant that
7 specifically says Utah law, but Utah doesn't recognize
8 restrictive covenants for that particular type of job, then
9 what does the Court do? Does the Court just remove that clause
10 and enforce the rest of the contract or is the whole contract
11 bad? You know, I'm going to need to know that.

12 I'm also going to need to know whether you agree that
13 Utah law applies based on this employment contract. It looks
14 like it's 10f in the employment contract in terms of what I'm
15 looking at here. So we'll deal with all of that.

16 MS. SCHWARTZ: Okay. And, Your Honor, if I can just
17 very briefly state that while Utah law may not allow medical
18 providers like doctors to have noncompete agreements, that's
19 not the case here where we're dealing with a nursing recruiter,
20 a staffer. So that was a misstatement that will be
21 clarified --

22 THE COURT: Okay.

23 MS. SCHWARTZ: -- at the closings and in our briefing
24 papers. But since we're here for the evidentiary portion
25 today, we're running out of time.

1 THE COURT: Okay.

2 MS. SCHWARTZ: If could proceed, that would be great.

3 THE COURT: Perfect.

4 MS. SCHWARTZ: All right. So the plaintiff calls her
5 first witness, Eleonore Ruffy.

6 THE COURT: Sure.

7 All right. Ma'am, could you raise your right hand for
8 me.

9 ELEONORE RUFFY, PLAINTIFF'S WITNESS, SWORN

10 THE COURT: Just grab a seat, adjust the microphone so
11 that everyone can hear you, and --

12 THE WITNESS: Can you hear me?

13 THE COURT: Yes, yes. Tell me your name.

14 THE WITNESS: Eleonore Ruffy.

15 THE COURT: Great. Whenever you're ready.

16 DIRECT EXAMINATION

17 BY MS. SCHWARTZ:

18 Q. Ms. Ruffy, are you currently employed?

19 A. I am.

20 Q. Who is your current employer?

21 A. CHG Medical Staffing doing business at RNnetwork or
22 commonly knowns as RNN.

23 Q. What is your position with RNnetwork?

24 A. I'm a vice president of sales.

25 Q. And what does RNnetwork do?

1 A. So RNnetwork is a nurse travel staffing agency. We staff
2 nurses in health care facilities, like hospitals, medical
3 clinics. Mostly temporary, occasionally permanent placement as
4 well.

5 Q. Okay. And where does RNnetwork place nurses?

6 A. We place them nationwide.

7 Q. Are you familiar with a company called AHS Staffing?

8 A. Yes. They are also a nurse staffing company. They do
9 other staffing as well. And they are also nationwide. And
10 they're a direct competitor of ours.

11 Q. When you say "they are also nationwide," what do you mean
12 by that?

13 A. They staff nurses all across the country.

14 Q. Do you know the individual defendant Rachel Shafer?

15 A. I do.

16 Q. And how do you know her?

17 A. She was formerly employed at RNNetwork. She's been -- she
18 has been with us for 17 years.

19 Q. What was Ms. Shafer's position at RNnetwork?

20 A. She was a health care recruiter, senior recruiter.

21 Q. What were her responsibilities as a senior recruiter?

22 A. So her key responsibilities involved developing
23 relationships with our nurses to qualify them and place them in
24 a health care facility somewhere in the country. We work with
25 thousands of facilities nationwide. She would develop the

1 relationship with the nurse, explain who RNnetwork is, qualify
2 them, get their resume ready for consideration to a position,
3 and then place them at a facility.

4 Q. Is developing relationships with nurses a big part of the
5 recruiter job?

6 A. Yeah, I would say it's the most important part of the job
7 because nurses can travel. As you said, every three months
8 they change jobs. And there are thousands of agencies to
9 choose from. It's a highly competitive industry. So creating
10 a strong relationship is key to keep them with RNnetwork.

11 Q. You may have heard Mr. Hecht state in his opening that
12 Ms. Shafer would get information about the nurses she sought to
13 recruit through Internet searches. How do recruiters like
14 Rachel Shafer get information to develop relationships with
15 travel nurses at RNnetwork?

16 A. Yeah, so we pay for leads in a couple of different ways.
17 We pay to post our job postings, our client job postings on
18 boards like CareerBuilder or indeed.com, and our nurses will
19 find our jobs across -- on those websites and apply.

20 A secondary way we get leads is through paying third
21 party sources who seek out travel nurses who are interested in
22 travel nursing today, and they send us the leads. All those
23 leads come in through our front desk personnel who enter them
24 in a database and then send them to a recruiter and the
25 recruiter calls the provider -- the nurse or provider, we call

1 them, from there.

2 Thank you.

3 So there's no cold calling in our -- in the
4 recruiter's role. At RNnetwork we provide them 10 to 12 leads
5 a week through that format.

6 Q. And so when you provide the nurse recruiters like
7 Ms. Shafer leads, are you providing them the contact telephone
8 numbers for these nurses?

9 A. Yes.

10 Q. Are you providing them email addresses for the nurses?

11 A. Yes.

12 Q. Are you providing them information about the type of shifts
13 that these nurses are preferring to work?

14 A. Yes.

15 Q. Are you providing these recruiters like Ms. Shafer
16 information about the specific specialty that each nurse works
17 in?

18 A. Yes.

19 Q. And when you provide these leads to nurses like Ms. Shafer,
20 are you providing information about positions that the nurse is
21 already interested in taking?

22 A. Yes.

23 Q. So in order to actually make these placements, did
24 Ms. Shafer have direct and frequent contact with RNN's nurse
25 clients?

1 A. Yes, it was very important in her role to have direct
2 contact with these nurses to -- as I mentioned before, to
3 qualify them. Whatever job they applied for when they first
4 came in, it was Rachel's job to decide if they were qualified
5 to apply for that role, then collect the information necessary
6 to help them apply, and then oversee the application process.

7 Once the facility sent an offer in, it was Rachel's
8 duty to oversee the -- help the qualifying of the rates and
9 help the pay rates in negotiating the pay for the nurse.

10 Once the nurse was accepted at the hospital, Rachel's
11 role was to oversee the credentialing process to make sure the
12 nurse arrives on site on day one, and then keeps regular
13 contact throughout the 13-week assignment is typical.

14 And then towards the end of the assignment it was
15 Rachel's job to make sure that she could prepare her to place
16 her somewhere else, either extend at the current facility or
17 place her somewhere else within RNN's network.

18 Q. We heard during the opening from Mr. Hecht that Ms. Shafer
19 was very successful. I think he said the third recruiter for
20 RNNetwork in the county. Is that right?

21 A. Yes, that's correct. She was one of our top recruiters.

22 Q. Did she develop close relationships with RNnetwork's
23 nurses?

24 A. Yes, she was quite good at it. She had to to be as good as
25 she was.

1 THE COURT REPORTER: I'm sorry. I need everyone to
2 slow down.

3 THE COURT: All right. So, listen, Karl has to take
4 down every word that everyone says. So I just need you all to
5 slow down a little bit so he can take it down. Cumulatively it
6 gets to be a whole lot over the course of a day.

7 So you were just talking about Ms. Shafer being one of
8 your top recruiters. So if you want to continue on with that
9 answer.

10 THE WITNESS: Yes, she was as -- she was one of our
11 top recruiters. Last year was our number three recruiter.

12 BY MS. SCHWARTZ:

13 Q. Did she develop close relationships with RNnetwork's
14 nurses?

15 A. Yes, she did. She was very good at what she did and
16 developed very strong relationships with them.

17 Q. Did Ms. Shafer have any experience in nurse staffing before
18 she was hired at RNnetwork?

19 A. She did not. She was hired upon -- this was her first job
20 out of college.

21 Q. Does Ms. -- I'm sorry.

22 Does RNnetwork typically hire experienced nurse
23 recruiters?

24 A. We do not. Throughout CHG we typically don't hire
25 experienced recruiters in order to avoid situations just like

1 this. We don't want to be accused of violating any type of
2 agreement. As you said in your opening statement, agreements
3 are very noncompete. Restrictive covenants are very common in
4 our industry because it is a very -- I'm sorry. I have to
5 speak more slowly. Because it is a very competitive industry
6 and travel nurses are few and far between and can charge jobs
7 every quarter. In fact, at CHG we always prescreen our
8 candidates. If they have worked within our industry, we
9 specifically ask about a noncompete. And if they've signed
10 anything, we don't interview them.

11 Q. Does the company invest any resources or training in its
12 nurse recruiters particularly since you just said you do not
13 hire experienced recruiters?

14 A. We do. Because we hire new recruiters with no prior
15 experience, we have a quite robust training program for new
16 recruiters. We have a training staff dedicated to training
17 brand-new recruiters in their first eight weeks. We put them
18 through what we call a core training program. After eight
19 weeks they are put on a sales floor. And we have a secondary
20 training team that will work with them weekly and train them
21 from week eight to month nine. Besides that, we have a
22 training team, and our leaders that train all recruiters,
23 including senior recruiters, weekly and monthly for ongoing
24 training. We also require all of our leaders to do weekly
25 desk-site coaching. So we do have a very robust training

1 program.

2 Q. Did Ms. Shafer receive any training at RNnetwork?

3 A. She did. Throughout her career she received the same
4 training as all other recruiters, either weekly or monthly.

5 Q. And was Ms. Shafer given access to RNnetwork's confidential
6 information and trade secrets as a recruiter to do her job?

7 A. Yes, she did. All of those leads I mentioned earlier were
8 entered in by our front desk into our database. It's called
9 Bullhorn. It's a secure applicant tracking system.

10 We have 400,000 candidates in that system today,
11 including candidate's name, when they first inquired about a
12 job with us, what specialty, their phone numbers, their emails,
13 what states they're licensed in, and where they live and where
14 they're interested in. All of that is in our secure database
15 that Rachel would have access to in order to develop the
16 relationships she needed to make her placements.

17 Q. What steps does the company take to protect its
18 confidential trade secret information from getting into the
19 hands of a competitor?

20 A. So all employees throughout CHG are required to sign the
21 noncompete, non-solicit, confidentiality agreement that was
22 mentioned earlier. And besides that, we have a fairly robust
23 security system. In our building we all have badges to get
24 into the building. We have an alarm system and cameras within
25 the building. If we do have paper files, we file them in a

1 separate storage unit that's locked and only accessible by
2 certain folks.

3 Software-wise we have passwords and passcodes to get
4 into our software. We have a separate password to get into the
5 Bullhorn applicant tracking system I mention earlier where all
6 of our most privy information is. We have third party
7 authentication and firewalls. So we are fairly secure.

8 Q. Okay. And you mentioned that one of the steps the company
9 takes is to require its employees to sign noncompete,
10 non-solicit, and confidentiality agreements. If a candidate or
11 an employee refuses to sign such an agreement, are they allowed
12 to work or will they still be hired by RNnetwork?

13 A. No, they will not.

14 Q. Do you recall when Ms. Shafer began working at RNnetwork?

15 A. In 2006.

16 Q. Okay. Was she employed as a nurse recruiter throughout her
17 time there?

18 A. Uhm, she took a part-time -- a break from 2009 to 2012, at
19 which time she was a nursing student and worked part time in an
20 assistant capacity. I was not there, but I understand it was
21 an assistant capacity. And then joined us again full time in
22 2012.

23 Q. Was she -- you said she was successful at her job, right?

24 A. Yes, absolutely.

25 Q. How much money in revenue did she generate for the business

1 last year in 2022?

2 A. In 2022 she generated \$6 million in gross margin.

3 Q. How much money did she make in commissions?

4 A. Over \$615,000 in total compensation.

5 Q. And did Ms. Shafer receive any promotions during her
6 employment at RNnetwork?

7 A. She did. She was promoted to a senior recruiter.

8 Q. How did her employment end?

9 A. Well, as Rachel became more and more successful, she took
10 more -- began taking more liberties in her job. In particular,
11 she would violate some company policies and processes on a
12 regular basis, which created extra work for business partners
13 and team members. She was insubordinate with her managers from
14 time to time. And she also had inappropriate nonprofessional
15 communication with many of her assistants and the business
16 partners who were there to assist her in her role.

17 She was counseled several times. We put her on formal
18 performance improvement plans, several of them, starting in
19 2018, and latest one is 2021, and just -- we had HR involved.
20 And despite all the coaching we gave her -- we hate to lose a
21 recruiter of that magnitude and somebody this good at what she
22 did, but despite all the years of coaching, we were unable to
23 see improvement, and ultimately we had to part ways.

24 Q. When was Ms. Shafer given the last performance improvement
25 plan that she was issued?

1 A. This is in 2021. Sorry. February 21st of '23. This year,
2 right?

3 Q. Yes.

4 A. Sorry.

5 Q. When was Ms. Shafer's employment terminated?

6 A. March 30th.

7 Q. Of?

8 A. 2023.

9 Q. And how long after her termination did you find out that
10 Ms. Shafer was working as a nurse recruiter for AHS?

11 A. In the summer. Around June of this year.

12 Q. How did you find out that Ms. Shafer was working as a nurse
13 recruiter at AHS Staffing?

14 A. Several of her former nurses that worked with her while she
15 was at RNnetwork reached out to us and let us know she was
16 reaching out.

17 MS. SCHWARTZ: May I approach the bench, Your Honor?

18 THE COURT: Sure.

19 BY MS. SCHWARTZ:

20 Q. I'm showing you, Ms. Ruffy, what has been marked with
21 Plaintiff's Exhibit 10. Do you recognize this email?

22 A. I do. This is an email I sent to CHG corporate showing
23 concerns about Rachel Shafer showing -- Rachel Shafer reached
24 out to Amanda Fobar and a prior --

25 MS. SCHWARTZ: Ms. Shafer, you can't speak in the

1 middle of the hearing.

2 BY MS. SCHWARTZ:

3 Q. Sorry. You can continue.

4 A. Oh, okay.

5 THE COURT: I didn't hear that.

6 MS. SCHWARTZ: During the testimony Ms. Shafer is
7 answering and responding to questions as I'm asking Ms. Ruffy.
8 I just asked her if she could wait.

9 THE COURT: Okay. Thanks. You're doing my job for
10 me.

11 BY MS. SCHWARTZ:

12 Q. Okay. So you were answering the question of what this
13 email is.

14 A. Yes, this is an email from me to our CHG ER department
15 sharing concerns that we had -- because we received proof that
16 Rachel had reached out to some of her former RNN nurses.

17 Q. Who is Leslie Miller?

18 A. She's a CHG employee. At the time she was a RNN sales
19 director. And a fellow recruiter -- senior recruiter of
20 Rachel's reached out with this employment agreement offer
21 snapshot that you see here.

22 Q. Well, was Leslie Miller the recruiter that took over
23 Ms. Shafer's relationship with nurse Amanda Jean Fobar?

24 A. No, Leslie was the leader of the recruiter that took over.

25 Q. So what is this image that appearances at the bottom of the

1 email?

2 A. So this is an employment agreement offer between Amanda
3 Fobar and AHS, our direct competitor, where Rachel Shafer went
4 to work. And the recruiter here is Rachel Shafer. And she
5 placed her at Presbyterian Hospital.

6 Q. Just to be clear, who is Amanda Jean Fobar?

7 A. So Amanda Jean Fobar is a RNN nurse that worked with Rachel
8 at the time that Rachel was here that is no longer with us
9 anymore. She's gone to work for Rachel at AHS.

10 Q. And how did RNnetwork come to be in possession of this AHS
11 Staffing employment agreement offer with Amanda Jean Fobar in
12 June of 2023?

13 A. Amanda reached out to -- Amanda reached out to our
14 recruiter to let her know that she was working with Rachel at
15 AHS and sent us this screenshot.

16 Q. Okay. Was Rachel allowed under the agreement she signed
17 with RNnetwork to immediately go work for another nurse
18 staffing agency?

19 A. She was not. She's not able to work for a direct
20 competitor for a period of 12 months.

21 Q. Now, did -- you may have heard Mr. Hecht say in the
22 openings that this agreement would prohibit Ms. Shafer from
23 working in the only industry she's ever known. But did her
24 noncompete agreement prohibit her from working in all types of
25 recruiting for the year after she left RNN?

1 A. No. Our noncompetes restrict us from our specific
2 specialty. In Rachel's case it would be nurse staffing. She
3 could go into physician staffing or allied health professional
4 IT staffing. Any other kind of staffing would be fine.

5 MS. SCHWARTZ: Your Honor, at this time I would like
6 to move to have Plaintiff's 10 admitted into evidence.

7 THE COURT: Okay. Mr. Hecht, any objection? This is
8 one of the ones you had mentioned at the outset.

9 MR. HECHT: Yes, Your Honor. We object to this
10 exhibit. We've never seen it. It's extremely prejudicial to
11 my client. They have never mentioned this name in their motion
12 for preliminary injunction. They haven't mentioned this name
13 in their complaint that they filed. It's the first time we see
14 it. I hadn't had a chance to properly discuss it and get a
15 proper response from my client about it. So we ask based on
16 prejudice and based on the fact that they didn't disclose it
17 before to not allow this exhibit.

18 THE COURT: Okay. So essentially your objection is
19 lack of notice?

20 MR. HECHT: Yes, Your Honor.

21 THE COURT: All right. So this particular document is
22 Plaintiff's 10. It's on the plaintiff's exhibit list that was
23 filed on CM/ECF on the 27th of October. And while I understand
24 the objection, I think under the Court's order notice was given
25 and then Ms. Schwartz has indicated there was an attempt to

1 confer as well. But for those reasons I'll overrule the
2 objection.

3 (Received in evidence Plaintiff's Exhibit(s) 10.)

4 MR. HECHT: Your Honor, may I respond about the
5 attempt to confer just to clarify the record?

6 THE COURT: Sure.

7 MR. HECHT: I sent her an email yesterday morning that
8 I'm going to be in a deposition all day, I'm not going to have
9 time. She offered 9 o'clock this morning to go over the
10 exhibits, like an hour before the hearing. That's the only
11 time that she offered to confer and review it. And given the
12 time constraint I had and the meeting with my client still
13 before the hearing, that was the only -- that was not an option
14 that was available for me.

15 THE COURT: Okay. So, look, I don't mean any
16 disrespect, but what would have been better? 8 o'clock?

17 MR. HECHT: If she would have sent it to me Friday
18 afternoon by 5 o'clock as the Court ordered.

19 THE COURT: The Court didn't order that. The Court
20 ordered disclosure of a list of witnesses and exhibits. And
21 then beyond that there's an expectation that lawyers will
22 attempt to work together.

23 But I just want to make sure because, you know, I like
24 a clean record. You're saying that she did offer to go over
25 everything with you at 9 o'clock. This hearing was set to

1 start at 10 o'clock. So, in essence, you could have seen this
2 particular document at 9 o'clock, shown it to your client, or
3 you could have on Friday or yesterday, Monday, said, hey,
4 Judge, I'm in court all day, I really need to see these
5 exhibits, can we start at 1:30.

6 I just need to know -- I mean, are you saying you need
7 a week to look at these? Are you saying you need a couple
8 hours? Are you -- just tell me what you're saying so I can
9 make a ruling.

10 MR. HECHT: I just need a reasonable time to discuss
11 it first with my client outside of this courtroom to check who
12 this individual is, what exactly transpired, and then we can
13 prepare an adequate response to it.

14 THE COURT: Okay. So let me get back to the question
15 then. What are you saying is a reasonable time?

16 MR. HECHT: I would say maybe 30 minutes, 45 minutes.

17 THE COURT: Okay. So she said 9 o'clock. The hearing
18 wasn't supposed to start until 10:00. So, anyway, for those
19 reasons it's overruled.

20 MR. MAYA: Your Honor, may I raise a separate
21 objection to the document to the extent that it was used for an
22 employment agreement with AHS as hearsay.

23 THE COURT: So you're still part of the hearing?

24 MR. MAYA: Your Honor, I did want to just lodge an
25 objection as to that.

1 THE COURT: Okay. Then I'll tell you what. I haven't
2 signed anything, so I'm going to say you guys haven't worked
3 anything out. So you go ahead and defend the way you want to
4 and go ahead and lodge your objection. What's your objection?
5 But keep in mind then you're defending. Don't expect me to
6 sign whatever you provide me in the next couple days.

7 MR. MAYA: Your Honor, as it relates to this email as
8 an attempt to introduce an employment agreement, I would just
9 lodge that as hearsay.

10 THE COURT: Okay. This is a preliminary injunction
11 hearing. So what are the hearsay rules with regard to that
12 type of hearing versus a trial?

13 MR. MAYA: Your Honor, I would like to at least see
14 the employment agreement being referenced. This is an expert
15 that's attempting to say that this in of itself is some
16 employment agreement. I just haven't seen that agreement in of
17 itself.

18 THE COURT: All right. And do you have an issue with
19 the authenticity? Is that what you're saying?

20 MR. MAYA: I do not, Your Honor.

21 THE COURT: Okay. You don't have an issue with the
22 authenticity. You represent AHS Staffing. This is an AHS
23 Staffing employment agreement, and you're saying you haven't
24 seen it.

25 MR. MAYA: Correct. I haven't seen this exact

1 document, Your Honor, this employment offer agreement to
2 confirm whether it's accurate or not.

3 THE COURT: I mean, your client has it, right?

4 MR. MAYA: I would have to confirm, Your Honor. I
5 can't say one way or the other here. I guess this goes to the
6 point in terms of seeing the documents in advance.

7 THE COURT: Is your client here?

8 MR. MAYA: No, Your Honor.

9 THE COURT: You need to get him here now. We'll take
10 ten minutes. Step outside, make a call, get him here within
11 ten minutes.

12 MR. MAYA: Your Honor, can that be through telephonic?

13 THE COURT: No, they need -- there's nothing worked
14 out for your client. Your client needs to be here to defend
15 this preliminary injunction hearing.

16 MR. MAYA: Your Honor, my client is out of state --

17 THE COURT: Well --

18 MR. MAYA: -- and won't be able to be here in ten
19 minutes.

20 THE COURT: Why aren't they here to defend this
21 preliminary injunction hearing?

22 MR. MAYA: Counsel is here, Your Honor. We didn't
23 notice any witnesses on our witness list.

24 THE COURT: But you're going to make arguments that
25 even documents that bear your client's letterhead are things

1 you haven't seen?

2 MR. MAYA: Correct. As to the authenticity, Your
3 Honor.

4 THE COURT: So wait, wait, wait. So now you're saying
5 you have an authenticity objection. Because, remember, that's
6 how I started, and you said no authenticity objection.

7 MR. MAYA: Your Honor, hearsay as to this document.
8 Not sure the accuracy of this excerpt as an employment
9 agreement. It's just an excerpt, half of a page of what
10 appears to be a DocuSign.

11 THE COURT: All right. So get someone who can
12 represent your client either via Zoom or over the phone that
13 has the authority to look up a DocuSign Envelope ID and tell me
14 whether this is what it is or not, and then we'll continue on
15 be in ten minutes.

16 MR. MAYA: Thank you, Your Honor.

17 THE COURT: Thanks.

18 (Recess at 11:24 a.m.)

19 (Call to Order of the Court.)

20 THE COURT: Okay, everyone. Please have a seat.

21 We're back on the record on CHG Medical Staffing
22 versus Rachel Shafer and now AHS Staffing LLC with regard to
23 our preliminary injunction hearing.

24 Counsel, you've been able to get your client on the
25 line?

1 MR. MAYA: I have, Your Honor. They're still
2 confirming the document. I just want to clarify and thank you
3 Your Honor for your patience.

4 We'll withdraw that objection. We'll stand by the
5 stipulation, if the Court is still okay with that. And the
6 parties stipulated that the evidence that's being introduced is
7 just for the preliminary injunction hearing today, in which
8 case we won't be making further objections or comment.

9 THE COURT: Okay. So I think with every preliminary
10 injunction hearing the evidence is supposed to be just for that
11 hearing. So I typically don't say that at the beginning, but I
12 should say it just so it's clear for all of you. You don't
13 even have to file a stipulation in that regard.

14 What's your position in terms of your client
15 participating? I mean, I'd kind of like to have them here if
16 you think there -- this is the first exhibit. I mean, there's
17 38 listed. He might have other issues with other ones. So if
18 you think that might happen, we should probably have your
19 client participate electronically.

20 MR. MAYA: Your Honor, I think as long as we stand by
21 the stipulation which addresses the scope of the documents that
22 are identified by the plaintiffs, and then my client will take
23 the opportunity to identify it, there won't really be any
24 additional participation on our end going forward.

25 THE COURT: Okay. Ms. Schwartz, you're okay with the

1 stipulation still?

2 MS. SCHWARTZ: Yes. Just to be clear, AHS Staffing
3 has indicated it still wishes to go ahead with the resolution
4 of today's hearing that we put on the record in the beginning
5 and that they will not be making any further objections during
6 the proceedings, understanding that our position will be these
7 exhibits are admissible just for the preliminary injunction
8 aspect of the case.

9 THE COURT: Understood. Okay. Then with that, let's
10 continue on. Where we are is Plaintiff's 10 is going to come
11 into evidence over objection.

12 I would also say, Mr. Hecht, I'm assuming you're going
13 to have a similar objection to a number of other exhibits. I'm
14 perfectly comfortable with you saying "same objection," or you
15 can make the record, however is better for you. Okay?

16 MR. HECHT: Thank you.

17 THE COURT: All right. Ms. Schwartz.

18 MS. SCHWARTZ: May I approach, Your Honor?

19 THE COURT: Sure.

20 BY MS. SCHWARTZ:

21 Q. I'm showing you what has been premarked as Plaintiff's
22 Exhibit 2. And, for the record, this is a document entitled
23 "Employment Agreement, Including Confidentiality,
24 Non-Competition and Non-Solicitation Provisions." Do you
25 recognize this document?

1 A. Yes, this is the document that Rachel Shafer signed on
2 July 26, 2012.

3 Q. And did she sign this document when she came back to work
4 for RNnetwork full time as a nurse recruiter?

5 A. Yes.

6 Q. And do you recognize Ms. Shafer's signature on the last
7 page of this document?

8 A. Yes, I do.

9 Q. Now, before she was allowed to begin working at RNnetwork,
10 was Ms. Shafer required to sign this agreement?

11 A. Yes, she was.

12 Q. And why was it a condition of her employment that she sign
13 a confidentiality, noncompetition and non-solicitation
14 agreement in order to work at RNnetwork?

15 A. Because at -- all of our employees are required to sign
16 this. But, in particular, recruiters have access to our
17 confidential database, which has the 4,000 candidates I
18 mentioned earlier. In order to do her job, she needs to farm
19 that and see all that confidential information, the names, the
20 phone numbers, the email address, the specialties. And it is
21 important to us that all of our employees sign this document so
22 that they aren't able to take it with them if they were to
23 leave the organization.

24 Q. If Ms. Shafer had refused to sign this agreement, would she
25 have been allowed to work at RNnetwork?

1 A. No, she would not have.

2 Q. I would like to direct your attention to paragraph 2, which
3 is entitled "Confidential Business Information" on the second
4 page.

5 A. Uh-huh.

6 Q. This paragraph identifies what constitutes confidential
7 information of RNnetwork. And I won't read it into the record
8 here. But you can see that the provision references data such
9 as information about the company's clients and providers,
10 names, addresses, numbers, email addresses, preferences, rates,
11 staffing needs, and more.

12 Based on your knowledge of the files that we will see
13 today that Ms. Shafer took from RNnetwork just before her
14 termination, did any of it constitute confidential or trade
15 secret information?

16 A. Yes, absolutely. All of the nurses we consider health care
17 personnel are considered clients. So in this paragraph we're
18 specifically talking about nurses and hospital systems. Those
19 are all clients to us.

20 Q. What kind of information -- well, we'll look at the
21 documents themselves later.

22 I would like to direct your attention paragraph 4
23 entitled "Duty of Confidentiality." Can you please read
24 paragraph (b) out loud?

25 A. Yes. "Employee agrees that all Confidential Business

1 Information is the sole and exclusive property of the Company.
2 Employee further agrees that all files, documents, works,
3 papers, electronic files and information and other materials
4 containing any Confidential Business Information or information
5 which Employee prepares, uses, possesses or controls that
6 affects or relates to the business of the Company are the sole
7 property of the Company. Employee agrees to take all steps
8 necessary, and all steps requested by the Company, to ensure
9 that the Confidential Business Information is kept confidential
10 and to comply with all applicable policies and procedures of
11 the Company regarding the use, disclosure, maintenance and
12 security of the Confidential Business Information."

13 Q. Did Ms. Shafer have permission to remove any electronic
14 copies of confidential business information from the company's
15 systems?

16 A. No, she did not.

17 Q. Did she have -- was it a violation of company policy for
18 her to email to her personal Gmail account spreadsheets
19 containing RNN's confidential business information and trade
20 secret?

21 A. Yes, absolutely.

22 Q. In paragraph 4(c) the agreement states that she, quote,
23 shall immediately return to the company all confidential
24 business information and, quote, that she shall not retain any
25 copies thereof, whether in hard copy or electronic form, end

1 quote.

2 Did Ms. Shafer return any copies of the electronic
3 documents that she had emailed to herself when she was
4 terminated?

5 A. No, she did not.

6 Q. Was she reminded of her obligation to return documents to
7 the company after her employment was terminated?

8 A. She was. She was reminded on the day of her termination,
9 and she was also sent a letter.

10 Q. And did Ms. Shafer return anything after she received the
11 letter?

12 A. She did -- other than her laptop, she did not return any
13 other documents.

14 Q. I would like to direct your attention to paragraph 5
15 entitled "Non-Competition Agreement." And according to this
16 provision, the employee agrees that for a period of one year
17 from the later of the date of -- that the employee's employment
18 is terminated or the last date on which the employee breaches
19 any of the restrictive covenants, that the employee shall not
20 be employed by any entity that is engaged in or competes with
21 the types of staffing that employee was engaged in during the
22 last three years of the employee's employment with the company.

23 Is Rachel Shafer's employment with AHS as a nurse
24 recruiter a violation of this noncompete agreement?

25 A. Yes, absolutely. AHS does exactly the same thing that

1 RNnetwork does in nurse staffing, and Rachel Shafer went to
2 work and did exactly the same job there as she did for us at
3 RNnetwork.

4 Q. And understanding that AHS Staffing no longer employs
5 Ms. Shafer, if she were to become employed as a nurse recruiter
6 for another nurse staffing company between now and
7 October 20th, 2024, which was the date of her termination from
8 AHS, the later of the breach language in this agreement, would
9 that be a violation of her noncompetition agreement?

10 A. Yes, absolutely.

11 Q. Now, this noncompetition provision says that the
12 restriction is for any competitive business within the United
13 States. Is it a reasonable geographic scope for it to be that
14 broad, the entire United States?

15 A. Yes, it's very common in nurse staffing. Health care
16 systems have facilities across the United States. So you might
17 have one client with jobs in California and Arizona and
18 Florida. So we place nationwide.

19 AHS, for example, is an Oklahoma-based company. They
20 hired Rachel Shafer who's in Florida and who staffs nationwide.
21 So it's quite common in our industry for all of us to work
22 across the United States.

23 MS. SCHWARTZ: Your Honor, I would like to move to
24 admit Plaintiff's Exhibit 2 into evidence.

25 THE COURT: Any objection?

1 MR. HECHT: No objection, Your Honor.

2 THE COURT: Okay. So Plaintiff's Exhibit 2, which is
3 the employment agreement, will come into evidence.

4 (Received in evidence Plaintiff's Exhibit(s) 2.)

5 BY MS. SCHWARTZ:

6 Q. You testified that Ms. Shafer was reminded of her
7 obligations in the employment agreement when her employment
8 ended. Was that reminder verbal or in writing?

9 A. It was in a letter.

10 MS. SCHWARTZ: May I approach, Your Honor?

11 THE COURT: Sure.

12 BY MS. SCHWARTZ:

13 Q. I'm showing you what has been premarked as Plaintiff's
14 Exhibit 5. Is this the separation letter that was sent to
15 Ms. Shafer after her employment was terminated?

16 A. Yes.

17 Q. And was this letter emailed to her?

18 A. It was mailed to her.

19 Q. Look at the second page. Does it indicate whether it was
20 also emailed?

21 A. Oh. And emailed to her, yes.

22 Q. Was Ms. Shafer provided another copy of her employment
23 agreement with this letter?

24 A. Yes, she was.

25 Q. And did Ms. Shafer return any documents after she received

1 this letter?

2 A. She did not.

3 Q. Did you come to learn that she did retain RNN records and
4 nurse client lists after her employment ended?

5 A. Yes, we were made aware shortly after that she had taken
6 confidential information with her --

7 Q. Okay.

8 A. -- and sent them to her personal email address.

9 MS. SCHWARTZ: I move to admit Exhibit 5 into
10 evidence.

11 THE COURT: Any objection on that?

12 MR. HECHT: The same objection, Your Honor.

13 THE COURT: Okay. All right. So Exhibit 5, which is
14 the letter from Keela Briles to Rachel Shafer, I'm going to go
15 ahead and admit it over objection.

16 (Received in evidence Plaintiff's Exhibit(s) 5.)

17 BY MS. SCHWARTZ:

18 Q. Okay. I'm going to show you what's been premarked as
19 Plaintiff's Exhibit 13. And we also are going to try to put it
20 up here on the screen.

21 THE COURT: You're going to put it on using the
22 computer?

23 MS. SCHWARTZ: Yes, so that Your Honor can see
24 exactly -- you know, while I printed the entirety of the Excel
25 spreadsheet, I thought it would be better for you to see the

1 actual spreadsheet.

2 THE COURT: Okay. It should be on your computer as
3 well.

4 THE WITNESS: I see it. Thank you.

5 THE COURT: Counsel, do you see it on your computer
6 monitors?

7 MR. MAYA: Yes.

8 MR. HECHT: Yes.

9 THE COURT: Okay. Thanks.

10 So before you go forward, just with regard to the last
11 objection as to Exhibit 5, which is the letter from Keela
12 Briles, I would note it's attached to the complaint. It's at
13 docket entry 1-3. So anyway, go on.

14 BY MS. SCHWARTZ:

15 Q. Ms. Ruffy, I'm showing you what has been premarked as
16 Plaintiff's Exhibit 13. Do you recognize this email and the
17 attachment?

18 A. Yes, this is an email Rachel sent to her personal Gmail
19 from her business account on March 9th at 2:58 p.m.

20 Q. And if you look at the attachments where it says "Team
21 Shafer W&A week 10 2023.xlsx," was this an Excel spreadsheet?

22 A. Yes, this is the Excel spreadsheet we see on the screen and
23 the printout.

24 Q. When did Rachel send this Excel spreadsheet to her personal
25 email address?

1 A. On March 9th at 2:58 p.m. during working hours.

2 Q. And was that a few weeks after she was placed on that last
3 performance improvement plan?

4 A. Yes, it was -- she was still employed with us. She had
5 received her performance improvement plan in February. On
6 March 9th her leader, Chrissy Evans, had emailed her earlier
7 that day letting her know she wasn't meeting performance
8 expectations of the plan, after which she sent this to herself.

9 Q. Okay. So we have on the screen in front of you the
10 actual -- I know I handed you an enormous printout of the
11 entire Excel spreadsheet, but we were able to get it up on the
12 screen. So I would like to direct your attention to the actual
13 spreadsheet on the screen and ask you, you know, just
14 generally, what is a W&A report at RNnetwork?

15 A. So this report shows all of our working nurses, so any
16 nurse that's currently working at a facility today. And then
17 awaiting nurses is any nurse that's contracted to go out
18 sometime in the near future but already employed at RNnetwork
19 as a working nurse. So working and awaiting list.

20 Q. Is this an internal report?

21 A. It is an internal report. It's highly confidential. It's
22 something we would never want to see leave outside our doors.

23 Q. In the first few columns we see the -- a columns entitled
24 Last Name, First Name, and Hospital. What information appears
25 here?

1 A. So last name and first name is the full name of the nurse
2 that is contracted with RNnetwork to go on assignment. The
3 hospital is the facility location where the nurse is working or
4 about to go work. And then the state is the state where the
5 facility is located.

6 Q. So when you see all of these different states on this
7 spreadsheet, is that an indication of the different places
8 throughout the country these nurses are being placed?

9 A. Correct. As I mentioned before, facility systems have --
10 health systems have facilities all over the country, and so our
11 nurses are placed all throughout the United States.

12 Q. The next few columns say Start Date, End date, Recruiter
13 and Consultant. What information appears in those columns?

14 A. So start date is the first day that the nurse started
15 working at that facility. End date is the date they are -- he
16 or she is scheduled to end the assignment. The recruiter would
17 be the recruiter who placed the provider. And the consultant
18 is the client representative who works directly with the
19 hospital. It's an internal employee that would have
20 facilitated the assignment transaction, along with the
21 recruiter.

22 Q. Would it be important for a competitor company to know what
23 the end date of an assignment is?

24 A. Yes, absolutely. As I mentioned before, after their
25 assignment ends, the travel nurse is going to rebook somewhere

1 else. So any competitor would want to know when they're
2 getting close to an end so they can reach out and try to
3 convince them to work through them versus RNnetwork.

4 Q. The next few columns say N/R/E, HSG Type, Bill Rate, and
5 GM. What information appears in these columns?

6 A. So N/R/E tells us if it's a new nurse that has never worked
7 with RNnetwork before. If they're extending, extension means
8 they are going to be working at that same facility for another
9 shift, another assignment. Renew means they worked with
10 RNnetwork prior and they're being rebooked with a different
11 facility. And then we also do have win back, which means they
12 worked for us in the past and they're now coming back to
13 RNNetwork.

14 Q. And what is HSG?

15 A. Housing. We do provide housing assistance for our nurses.
16 And so this indicates internally for us if they've chosen to
17 utilize us for housing assistance or if they want a housing
18 stippen and they'll get their own housing. Bill rate is the
19 rate we intend -- the hourly rate we intend to bill the client
20 for the nursing services. And gross margin is the hourly
21 dollar amount that is left over to RNnetwork after we paid the
22 nurse.

23 Q. So is that the profit?

24 A. That's the profit.

25 Q. Is information regarding what RNnetwork bills its clients

1 for its travel nurses considered confidential?

2 A. Absolutely. It's highly confidential. Any competitor who
3 gets this could easily contact our client and undercut our bill
4 rate and take our assignment.

5 Q. In the next few columns it says AE, Primary Email,
6 Specialty, and Shift. What information do we see here?

7 A. So AE is our internal employee. It's an account executive.
8 We assign account executives to high-value clients, meaning
9 clients that we do a lot of business with. So you'll see
10 there's sometimes a name, sometimes there's not. Candidate
11 primary email is the nurses -- the nurse client's email
12 address. Specialty is the specialty of both the nurse and the
13 job. That's how we match the job to the nurse. And then the
14 shift is the designated shift for that job, also the shift that
15 the nurses agree to work.

16 Q. Would any of this information be useful to a competitor?

17 A. Absolutely. This is all of our business in a nutshell.
18 These are all the providers we've contracted that are working
19 with RNnetwork across the country. There are about 4 million
20 nurses. Only 50,000 of them want travel nursing. RNnetwork
21 has spent a lot of years putting together -- contracting with
22 these nurses here who have agreed to do travel nurse
23 assignments. So it's a very, very precious document for us.

24 Q. Would this information -- for example, if you look at
25 line 2, let's take Priscilla Munodawafa. Would this

1 information about Priscilla working at Providence St. John's
2 Health Center in California on an assignment ending March 11,
3 2023, with the specialty of RN telemetry, working 12-hour
4 shifts at night be helpful to a competitor?

5 A. Absolutely. For one thing, they now know Priscilla is a
6 travel nurse. They know when Priscilla will end working at
7 Providence. They also know Providence Health Care Services is
8 using travel nursing services at St. John's Health Center in
9 California, which narrows the scope down. And then they also
10 know what we intend to bill the client at Providence. So they
11 can call and give them a better deal, if you will. And they
12 can do the math to see how much we paid the provider Priscilla
13 and call Priscilla. They can email Priscilla, the email is
14 right there, and present a different opportunity for Priscilla
15 that might be attractive, and at that point we lose the nurse.

16 Q. On this spreadsheet there appears information for how many
17 different nurses? We're going to scroll to the bottom.

18 A. 2,451.

19 Q. And are all -- are these all Rachel's nurse clients?

20 A. No. So you can see it's been filtered by Rachel. That is
21 only a handful. This report actually shows every single nurse
22 we have on assignment today. So not only booked by Rachel, but
23 also booked by all the other recruiters we have on staff.

24 Q. Okay. So now that the -- now that we've just cleared the
25 filter, you can actually see that this pertains to 2,451

1 nurses, correct?

2 A. Yes.

3 Q. Is there any reason that you can think of that Rachel would
4 need to have this document after her employment ended with
5 RNnetwork?

6 A. There's no reason she would need this. As mentioned
7 earlier, she did receive a commission statement that would show
8 her assignments only, some very highly redacted information
9 that's not all of this, so that she can track her own
10 commissions and be sure that we pay her correctly. This report
11 is obviously much more robust and shows every other provider
12 that -- or nurse that we have on assignment.

13 Q. One of the arguments that Mr. Hecht made in the beginning
14 of these proceedings is that Ms. Shafer was given the
15 information that we're claiming was confidential to help her
16 determine her commissions even after her employment ended.

17 Did we -- did RNnetwork ever send Ms. Shafer working
18 and awaiting Excel spreadsheets after her employment ended?

19 A. No.

20 Q. Did RNnetwork send Ms. Shafer any information pertaining to
21 any nurses that were placed by any recruiters other than
22 Ms. Shafer?

23 A. No.

24 Q. And in any of the documents that RNnetwork sent to
25 Ms. Shafer after her job ended, did RNnetwork provide contact

1 information for nurses?

2 A. No.

3 Q. Did it provide specialty information for nurses?

4 A. No.

5 Q. Did it provide any information about the shifts that the
6 nurses prefer to work in?

7 A. No.

8 Q. Did RNnetwork give Ms. Shafer any information about the
9 type of housing that the nurses require?

10 A. No.

11 Q. The only information that was given was limited strictly to
12 her commissions, correct?

13 A. Correct.

14 Q. Is there any reason that you can think of that Ms. Shafer
15 would need to send this working and awaiting spreadsheet to her
16 personal Gmail account while she was performing work for the
17 company?

18 A. No, there would be no reason for her to need to access it
19 while she was -- send it to her own personal. She had full
20 access using her login credentials. She could access it from
21 her phone, her home computer, anything, while she was an
22 employee.

23 Q. Was it a violation of company policy to send this
24 information to her personal email account?

25 A. Absolutely. This is very highly private confidential

1 information.

2 Q. Now, the document itself, with all of this information in
3 this neatly distilled, easy to search Excel format, is it
4 available publicly on the Internet anywhere?

5 A. No, it is not.

6 Q. What about the information itself that is contained in this
7 spreadsheet, is the information publicly available on the
8 Internet anywhere?

9 A. No, it is not.

10 Q. Can you think of anywhere on the Internet where you could
11 find personal email addresses for over 2,000 travel nurses in
12 one place?

13 A. No.

14 Q. Do you know who created this spreadsheet?

15 A. So this spreadsheet would have been created by either
16 Rachel herself or perhaps her assistant. You can pull the
17 information from our database. You go into our database and
18 you request the information by clicking a few buttons, you
19 download it, and then you create an Excel spreadsheet.

20 Q. How long did it take to -- for RNnetwork to input all of
21 these nurses' information into the Bullhorn database in order
22 for lists like this to be populated?

23 A. So we've been in business for 25 years. So I would say it
24 would take us at least that long. Nurses, as we mentioned -- I
25 mentioned earlier, the lead comes in originally through our

1 lead source generation efforts, and then it could take months
2 and months or even years to place the nurse on an assignment.

3 Q. Now, I believe you testified earlier that RNnetwork has
4 about 400,000 leads in the system; is that right?

5 A. Yes, that's correct.

6 Q. So this list, this working and awaiting list that
7 Ms. Shafer emailed to herself, does this contain prospects or
8 is this -- what is this list containing?

9 A. Yes, this is not a prospect list at all. These are
10 actually nurses that have contracted to work at RNnetwork.
11 They are actually W-2 employees of RNnetwork that are either
12 working right now or about to be able to work and going through
13 the credentialing process. There's not a prospect on here.
14 This is really our bread and butter, and all of our money is in
15 here, in this report.

16 Q. So in that case do you consider this working and awaiting
17 document to be a trade secret?

18 A. Absolutely. It would be very detrimental to us if it got
19 into the hands of a competitor.

20 MS. SCHWARTZ: I would like to move to have
21 Plaintiff's 13 admitted into evidence.

22 THE COURT: Mr. Hecht, any objection to Plaintiff's
23 13?

24 MR. HECHT: I would say same objection, but I want to
25 also add authenticity. I just want to see who downloaded this

1 document that we are looking at right now. Is that directly
2 from the witness?

3 MS. SCHWARTZ: Yes, it's directly from the email that
4 Ms. Shafer sent to herself. We took that email and clicked on
5 the Excel spreadsheet that is attached to that email.

6 MR. HECHT: Did the witness do that? I don't know if
7 we got that on the record, if the witness was the one. Because
8 it looks different than the file we have, and I just want to
9 understand why is it.

10 THE WITNESS: Did I personally open the file attached
11 to this email --

12 MR. HECHT: Yes.

13 THE WITNESS: -- when it was first made aware to me?
14 Yes, I did.

15 MR. HECHT: Okay. So this file that's opened is a
16 file that you downloaded. Okay.

17 Yes, then we are not objecting on authenticity, but we
18 are still objecting that we didn't see this file before.

19 THE COURT: Okay. So on this particular one, this as
20 well was disclosed in docket entry 44. And this document is an
21 email from your client to herself purportedly. So I'm going to
22 overrule the objection on those grounds.

23 (Received in evidence Plaintiff's Exhibit(s) 13.)

24 MS. SCHWARTZ: I would also note for the record that
25 this exhibit is on Ms. Shafer's exhibit list as Exhibit No. 5.

1 THE COURT: Okay. Yes, it looks like Exhibit 5 is the
2 same exhibit, but specifically the 112 nurses that are in this
3 document as opposed to the 2,451, correct?

4 MS. SCHWARTZ: Plaintiff -- I'm sorry. Ms. Shafer did
5 not attach the actual printout of the Excel spreadsheet from
6 what I can tell. But you can see from the email the same Excel
7 spreadsheet attached to her exhibit. What we provided the
8 Court was a printout of it in the event that we had a
9 technology malfunction and were unable to open the spreadsheet
10 today.

11 THE COURT: Okay. So let me just ask you this just
12 for clarification. It's a good point. What you're admitting
13 into evidence, is it the email from Ms. Shafer to herself plus
14 what you have is these two pages attached, or is it the
15 entirety, including the 2,451 nurses?

16 MS. SCHWARTZ: It is the entirety of the 2,451 nurses
17 because that shows what she took. However, in terms of filing
18 it with the Court, because that is the confidential trade
19 secret information, it would have to be under seal.

20 THE COURT: I don't really need it going forward. I'm
21 going to give you back what you handed me.

22 MS. SCHWARTZ: Okay.

23 THE COURT: But I don't know that you need to file it.
24 Okay. That makes -- I understand then.

25 So this document is the same as docket entry 46-5,

1 which is on Ms. Shafer's exhibit list as well. So, okay, I'll
2 overrule the objection. We'll just call it Plaintiff's 13.

3 MS. SCHWARTZ: Thank you, Your Honor.

4 BY MS. SCHWARTZ:

5 Q. I would like to show you what's been premarked as
6 Plaintiff's Exhibit 12.

7 MS. SCHWARTZ: May I approach, Your Honor?

8 THE COURT: Sure.

9 BY MS. SCHWARTZ:

10 Q. I'm showing you what has been marked as Plaintiff's
11 Exhibit 12. Do you recognize this email and attachment.

12 A. Yes, this is another email Rachel sent to herself at her
13 home Gmail address with more confidential information.

14 Q. Okay. And can you tell from the subject line or the
15 attachment what information Ms. Shafer had forwarded to her
16 personal Gmail address on March 10th of 2023?

17 A. Yes, she sent two documents. One of them being the working
18 and awaiting, which is the same report we just looked at but
19 week six. And then the current TOA, which is a list of every
20 recruiter and their traveling assignment.

21 Q. Okay. So when you say this is the same information that
22 was showing on the Exhibit 13 but this one is for week six, do
23 both Excel spreadsheet contain different information?

24 A. They do. So the week indicates the week and the year it
25 was created. So week ten and week six. Week six would have

1 been four weeks prior to week ten. So she's capturing a
2 different set of nurses on assignment at a different time.

3 Q. Can you think of any reason why Ms. Shafer would on
4 March 10th, the day after she sent the week ten spreadsheet to
5 herself, why she would go back and then forward to her personal
6 Gmail address all of this information for week six?

7 A. It could only be to capture a bigger pool of providers or
8 perhaps there was a provider in her name she was looking for --
9 looking to capture that was no longer working in week ten.
10 Those are the only two reasons I can think of.

11 Q. Okay. So do we have exhibit -- do we have the spreadsheet
12 on the screen?

13 A. Yes.

14 Q. Okay. If you look to the bottom of this exhibit, how many
15 nurses' information appear on this spreadsheet?

16 A. 2,543.

17 Q. Okay. Now, on the week ten spreadsheet we saw there was
18 information for 2,451. Do you know why that number may have
19 changed from the week six spreadsheet?

20 A. Because it's a different time period. So depending on the
21 time period you select, you'll get -- you'll see the actual set
22 of working and awaiting nurses for that time. So she pulled
23 two different time periods, meaning two different sets of data.

24 Q. Now, during the company's investigation of what Ms. Shafer
25 took from RNnetwork, in the 17 years that she had worked there

1 did you find that she had ever emailed to her personal Gmail
2 account any working and awaiting documents prior to March 9th,
3 2023?

4 A. We did not. We only found the -- March 9th was the first
5 one at 2:58 p.m., and then the second one on March 10th at
6 9:21 a.m.

7 MS. SCHWARTZ: Your Honor, I would like to move to
8 admit Exhibit 12 into evidence.

9 THE COURT: Sure. Any objection to Exhibit 12?

10 MR. HECHT: I just want clarification on Exhibit 12.

11 THE COURT: Okay.

12 MR. HECHT: The text document that we have seems to
13 have only about a hundred something, like two pages, but I
14 think the document you're showing shows a few thousand. Is
15 this the same document?

16 MS. SCHWARTZ: So for demonstrative purposes we took a
17 screenshot of a couple of pages. But when you expand the Excel
18 spreadsheet in its form -- in the original form on which she
19 sent it to herself, which is on your screen, you see the full
20 scope of the spreadsheet, and it contains 2,543 nurses. I
21 didn't print the entire spreadsheet to hand out for this
22 exhibit.

23 MR. HECHT: Same objection.

24 THE COURT: Okay. So I'm going to overrule that
25 objection.

1 (Received in evidence Plaintiff's Exhibit(s) 12.)

2 THE COURT: If I might, I just have one question for
3 you. Stands to reason that a substantial number of the 2,543
4 nurses that would be on the document that's on the screen are
5 the same as the 2,451 nurses in the previous document?

6 THE WITNESS: Yes, that's correct.

7 THE COURT: Okay.

8 THE WITNESS: Yeah. Because they're three-month long
9 assignments, so yes.

10 THE COURT: Thank you.

11 BY MS. SCHWARTZ:

12 Q. They are the same or they're different?

13 THE COURT: Same.

14 THE WITNESS: It's a little bit -- there's going to be
15 more nurses if you take both of them, but there will be
16 duplication across the boat.

17 THE COURT: In other words, there's not 5,000
18 nurses --

19 MS. SCHWARTZ: Oh, right.

20 THE COURT: -- but there's closer to probably slightly
21 more than 2,543.

22 THE WITNESS: Correct.

23 THE COURT: Okay.

24 BY MS. SCHWARTZ:

25 Q. So you testified earlier that Ms. Shafer started emailing

1 her personal Gmail account this confidential information after
2 it was apparent that her job was in jeopardy. Why do you think
3 it was apparent to Ms. Shafer that her job was in jeopardy on
4 March 9th, 2023?

5 A. So on that day she received an email recap from her leader
6 Chrissy Evans recapping how she was doing on her performance
7 improvement plan from February in which Chrissy shared that she
8 was struggling to perform on that plan.

9 Q. Okay. I would like to show you what I had premarked as
10 Plaintiff's Exhibit 9 (sic).

11 MS. SCHWARTZ: May I approach the bench, Your Honor?

12 THE COURT: Sure.

13 MS. SCHWARTZ: Exhibit 19.

14 BY MS. SCHWARTZ:

15 Q. Do you recognize this email?

16 A. I do. This is the email that Chrissy sent to Rachel.

17 Q. Okay. And did Rachel after receiving this email send it on
18 somewhere else?

19 A. Yes, she forwarded it to her home Gmail account two minutes
20 later.

21 Q. What is it about this recap week email that you think led
22 Rachel to believe her job was in jeopardy?

23 A. Well, in paragraph 2 Chrissy explains, writes to her, "We
24 continue to discuss ongoing concerns with your communication
25 that do not align with our core values. I have highlighted the

1 areas where expectations were not met with included examples of
2 what good looks like from a communication perspective." And on
3 page 2 you'll see numerous examples that Chrissy sent.

4 Q. What do you understand -- so on that same paragraph, the
5 next sentence, Chrissy wrote, "It is imperative that you bring
6 me in the loop prior to responding out of heightened emotion.
7 I'm here to support you. However, I am noticing that you are
8 responding to emails in the moment causing a continued negative
9 impact on your brand." What does that mean?

10 A. Yes, so as I testified earlier, one of the struggles we had
11 with Rachel was in her inappropriate communication with
12 business partners or her assistants or client partners. And
13 one of the -- that was one of the areas we've been working on
14 with her since 2018 closely. This is her leader. Several of
15 her leaders over time have recommended that they prescreen her
16 communication so that it could be sent out more appropriately.
17 That was one of our efforts to salvage this. And Chrissy is
18 reminding her of that commitment which she did not meet.

19 Q. On the second page after the list of expectations, Chrissy
20 wrote, quote, your professional brand throughout the
21 organization is compromised. Internal partners have expressed
22 on numerous occasions and via different avenues of
23 communication their inability to productively and positively
24 support you due to your communication and have expressed their
25 desire to not, if at all possible, be assigned to you. Your

1 communication is and has been at the core of your behavioral
2 issues and has reached a point of zero tolerance.

3 Do you read this as Chrissy conveying to Rachel her
4 job was in jeopardy?

5 A. Yes.

6 Q. And did you have discussions with Chrissy about Rachael's
7 job being in jeopardy?

8 A. I did not, no. I -- me personally, I had conversations
9 with Chrissy's leader, but yes.

10 Q. At this point had Ms. Shafer been receiving performance
11 improvement plans for the same behaviors over the course of
12 years?

13 A. Yes, her first one was in 2018, she had another one in
14 2020, and this was the third one.

15 MS. SCHWARTZ: Okay. So I would like to move to admit
16 Exhibit 19 into evidence.

17 THE COURT: Any objection?

18 MR. HECHT: Same.

19 THE COURT: Okay. So 19 is an email from the
20 defendant to herself. I'm going to overrule that objection.

21 (Received in evidence Plaintiff's Exhibit(s) 19.)

22 BY MS. SCHWARTZ:

23 Q. Before we move onto the next exhibit, if you can just take
24 note of the time that Ms. Shafer sent this email to her
25 personal Gmail address. For the record, what time did she send

1 this?

2 A. On March 9th at 2:19 p.m.

3 Q. Okay. Do you recall what time on March 9th she had sent
4 that working and awaiting week ten spreadsheet to her personal
5 email address?

6 A. 2:58 p.m.

7 Q. So just about 40 minutes later?

8 A. Yes.

9 Q. I would like to show you what I've had premarked as
10 Plaintiff's Exhibit 15.

11 MS. SCHWARTZ: May I approach, Your Honor?

12 THE COURT: Sure.

13 BY MS. SCHWARTZ:

14 Q. I'm showing you Plaintiff's Exhibit 15. Do you recognize
15 this email?

16 A. Yes, this is an email Rachel Shafer sent to herself that is
17 an Aya Healthcare job posting.

18 Q. And what date and time did Ms. Shafer first send this job
19 posting link to herself?

20 A. March 9th at 4:28 p.m.

21 Q. So that's about 90 minutes after she forwarded the working
22 and awaiting spreadsheet?

23 A. Correct.

24 Q. What is Aya Healthcare?

25 A. Aya Healthcare is another direct competitor to RNnetwork.

1 They do nurse staffing nationwide similar to ourselves and AHS.
2 And this is a career job posting link.

3 Q. So what does this email indicate to you?

4 A. It indicates to me that she intended to apply to Aya
5 Healthcare for an internal job.

6 MS. SCHWARTZ: I would like to move Exhibit 15 into
7 evidence.

8 MR. HECHT: Same.

9 THE COURT: So I'll allow it in, but I don't know why
10 someone can't apply for another job. It doesn't mean anything
11 to me, but I'll let it in.

12 (Received in evidence Plaintiff's Exhibit(s) 15.).

13 BY MS. SCHWARTZ:

14 Q. Just to be clear, the date of this email, was that during
15 the time that Ms. Shafer was still employed by RNnetwork?

16 A. Yes, she was still employed with us.

17 Q. And based on the email was she looking at job postings for
18 jobs with competitors during her workday at RNnetwork?

19 A. Yes.

20 Q. And again, this happens to be the same day she forwarded
21 RNnetwork's confidential information to her personal Gmail
22 address?

23 A. Yes.

24 Q. After she received the cap email, correct?

25 A. Correct.

1 Q. I would like to show you what I had premarked as
2 Plaintiff's Exhibit 20.

3 Did RNnetwork discover that Ms. Shafer had emailed to
4 her personal Gmail account -- strike that.

5 I'm showing you Plaintiff's Exhibit 20. Do you
6 recognize this email and attachment?

7 A. Yes, this is an email Rachel sent to herself with attaching
8 her own personal resume.

9 Q. Okay. And what date did Ms. Shafer send this email from
10 her RNnetwork email to her personal Gmail address?

11 A. On March 9th at 7:22 p.m.

12 Q. So that's the same day that we've been seeing this flow of
13 other documents leaving RNnetwork and going to her personal
14 Gmail address, right?

15 A. Yes.

16 Q. Now, if we look at her resume, on the very first and second
17 sentences she wrote, under her senior recruiter job at
18 RNnetwork, over a hundred TOA March 2023 and over 185 TOA at
19 industry peak in 2022. What does that tell a competitor in
20 this industry?

21 A. So this indicates how many travelers on assignment Rachel
22 managed at any one time. So at one point she had 100 travelers
23 working somewhere within the country, and at another point at
24 her peak 185. This is terminology that is unique to nurse
25 staffing. There's only one reason to put it on your resume

1 this way, and it's if you were to present your resume for
2 consideration with a travel nurse staffing company
3 specifically.

4 Q. Okay. So looking at all of these exhibits chronologically,
5 after Chrissy sent Rachel the PIP recap at 2:17 p.m. on
6 March 9th, did Rachel then spend the rest of that afternoon
7 updating her resume, looking for jobs at other nurse staffing
8 companies, and emailing client lists and confidential trade
9 secret information to her Gmail address?

10 A. Yes, exactly.

11 MS. SCHWARTZ: Your Honor, I would like to move to
12 admit Exhibit 20 into evidence.

13 THE COURT: Any objection?

14 MR. HECHT: Actually, Your Honor, we have no objection
15 to this one.

16 THE COURT: So 20 will come into evidence.

17 (Received in evidence Plaintiff's Exhibit(s) 20.)

18 BY MS. SCHWARTZ:

19 Q. Did RNnetwork discover that Ms. Shafer emailed to her
20 personal Gmail account more documents containing confidential
21 information and trade secrets than what we just looked at
22 today?

23 A. Yes, there were some more discovered between March 9th and
24 last day on March 30th.

25 Q. Apart from the employment agreement that was attached to

1 her March 30th separation letter, do you have any reason to
2 believe that Ms. Shafer knew taking the list and documents that
3 she emailed to herself or going to work for a competitor was
4 wrong?

5 A. Yes. We discovered that she emailed to herself our
6 internal non-solicitation and noncompete policy. That's an RNN
7 document describing the policy itself.

8 Q. Okay. I would like to show you what's been premarked as
9 Plaintiff's Exhibit 11.

10 MS. SCHWARTZ: May I approach, Your Honor?

11 THE COURT: Sure.

12 BY MS. SCHWARTZ:

13 Q. Do you recognize this email and document?

14 A. Yes, this is an email that Rachel sent to herself that is a
15 link to our internal noncompete, non-solicitation process.

16 Q. So on March 28th at 7:37 a.m., did Rachel Shafer send to
17 her email address a link to a company document entitled
18 "Noncompete non-solicit process RNN 10.2022."

19 A. Yes.

20 Q. What is this document?

21 A. So this is an internal document that trains our employees
22 on how to mitigate situations just like this. So if a
23 recruiter were to leave and go to a competitor, and somebody --
24 an internal employee is made aware, or if an employee leaves
25 and goes -- and solicits any nurses or internal -- other

1 internal candidates and a current internal employee finds out,
2 this process describes how to handle that escalation to make
3 sure our proper legal authorities know about it in our
4 organization.

5 Q. Can you think of any reason why Ms. Shafer would send
6 herself a link to do this policy on March 28th?

7 A. There would be no reason for her to need this unless she
8 intended to violate it herself.

9 Q. Is this procedure another way in which RNnetwork protects
10 its confidential and trade secret information?

11 A. Yes, absolutely. It allows us to find out early and then
12 mitigate quickly if we find out an employee is -- has either
13 gone to a competitor or is soliciting employees.

14 MS. SCHWARTZ: Your Honor, I move to have Exhibit 11
15 admitted into evidence.

16 MR. HECHT: Your Honor, we will object on relevancy.
17 We don't see any relevance do that.

18 THE COURT: Okay. I understand the objection. I'm
19 going to let it in. And then, obviously, you can cross as to
20 what the reason is why that was proffered as to why she would
21 want this document.

22 (Received in evidence Plaintiff's Exhibit(s) 11.)

23 BY MS. SCHWARTZ:

24 Q. Ms. Ruffy, we talked today about the documents and
25 information that Ms. Shafer took from RNnetwork before she

1 began working at competitor AHS, but do you have any evidence
2 that she used RNnetwork's information after joining AHS?

3 A. Yes, we have -- we have examples of Rachel reaching out to
4 nurses after she left, our nurses after she left to solicit
5 them to work for AHS.

6 Q. I would like to show you what's been premarked as
7 Plaintiff's Exhibit 23.

8 I'm showing you what has been marked as Plaintiff's
9 Exhibit 23, and it has three text messages on it from Rachel
10 Shafer to Emily Sporl. If you can please turn your attention
11 to the last page so we can start from the beginning.

12 Now, the top shows a text of some type of chart dated
13 March 17th, 2022. Was Ms. Shafer still employed by RNnetwork
14 on that date?

15 A. She was, yes. This is about a year before she left.

16 Q. The next text message right underneath that from Rachel to
17 Emily is dated June 23, 2023. Was Rachel employed by RNnetwork
18 on that date?

19 A. No, she was no longer employed with us.

20 Q. Okay. So this text message was sent how long after
21 Ms. Shafer had left RNnetwork?

22 A. Approximately three months.

23 Q. And can you read that text message out loud, please.

24 A. "Hi are you still travel nursing? I would love to work
25 with you again. Rachel Shafer, BSN AHS Stat Staffing."

1 Q. And was Ms. Shafer working for AHS when she sent this text?

2 A. I would assume so because she's using the title AHS stat
3 staffing.

4 Q. Okay. And did Emily respond to this test message?

5 A. She did not.

6 Q. Further down on the page Rachel texted Emily again on
7 August 17, 2023. Can you please read that test message out
8 loud?

9 A. Yes. "Hi are you still travel nursing? I would love to
10 work with you. I have 17 years experience. Rachel Shafer, BSN
11 AHS Stat Staffing."

12 Q. Did Emily respond to that test message?

13 A. She did not.

14 Q. On the second page of the exhibit there is a third text
15 message from Rachel to Emily dated August 30th, 2023. And what
16 did Rachel write in this test message?

17 A. "Hi Emily, after 17 years I switched companies. Are you
18 still travel nursing? Rachel Shafer, BSN AHS
19 Staffing-NurseStat." And then she provides her phone number
20 and her AHS Staffing email.

21 Q. Now, how did RNnetwork learn that Rachel was sending these
22 solicitation test messages to Emily trying to get her to work
23 with AHS?

24 A. So Emily Sporal is not a travel nurse. She is an internal
25 employee of RNN, but her name is in our Bullhorn secure

1 database as a nurse. Several of us had over time put in our
2 credentials, put in our names and addresses in our system as
3 pretend nurses so that we could test our software and also see
4 what kind of marketing materials would be sent out. So Rachel
5 obviously assumed that she is a travel nurse and attempted to
6 reach out and have her work with her there.

7 MS. SCHWARTZ: Your Honor, at this time I would like
8 to move to admit Exhibit 23 into evidence.

9 THE COURT: Any objection?

10 MR. HECHT: Your Honor, I would like to point out same
11 objection. But as this -- this -- the content of this email I
12 think was attached to the preliminary injunction motion, some
13 of these test messages, but the cover page show which nurses
14 and giving us some more identifiable information was not
15 included. So based on that we are objecting.

16 THE COURT: I understand the objection. I'm going to
17 overrule it. P23 will come into evidence.

18 (Received in evidence Plaintiff's Exhibit(s) 23.)

19 BY MS. SCHWARTZ:

20 Q. I'd like to show you what's been premarked as Exhibit 9,
21 Plaintiff's Exhibit 9.

22 I'm showing you Plaintiffs' Exhibit 9, which is an
23 email from Alaina Robertson to Chrissy Evans dated July 14th,
24 2023, with the title "Nurses leaving us to work with Rachel."

25 Who is Alaina Robertson?

1 A. Alaina Robertson is a senior recruiter, health care
2 recruiter at RNnetwork.

3 Q. What is it about this email that she forwarded that led you
4 or others at RNnetwork to think Rachel was soliciting
5 RNnetwork's nurses?

6 A. So Haley is a nurse, an RNN nurse that was working with
7 Rachel, and we transitioned her to Alaina once Rachel left.
8 And you can see at the -- this is Alaina reaching out to Haley
9 the nurse. And Haley responds, "Awesome thank you for that.
10 I'm probably going to go back to my old recruiter that you took
11 over for. But again if the rate is right me and my friend will
12 travel with whoever pays the most."

13 Q. So what about that email lead you to think Rachel is
14 soliciting Haley?

15 A. There would be no other reason for Haley to know that
16 Rachel is working at a competitor if she hadn't reached out to
17 her, and she started a pay war.

18 MS. SCHWARTZ: I would like to move to admit Exhibit 9
19 into evidence.

20 THE COURT: Any objection on this one?

21 MR. HECHT: Yes, same objection.

22 THE COURT: And by saying -- the disclosure issue?

23 MR. HECHT: Yes.

24 THE COURT: Okay. Same thing. I'm going to allow it.
25 This is on plaintiff's exhibit list from 10/27. And so it will

1 come in as Plaintiff's 9.

2 (Received in evidence Plaintiff's Exhibit(s) 9.)

3 BY MS. SCHWARTZ:

4 Q. I'd like to show you what I've had marked as Plaintiff's
5 Exhibit 8.

6 MS. SCHWARTZ: May I approach, Your Honor?

7 THE COURT: Sure.

8 BY MS. SCHWARTZ:

9 Q. I'm showing you Plaintiff's Exhibit 8. And the top of the
10 email is the same one that we just looked at from Haley
11 Hohnhorst. But there's another exchange below it that says it
12 was an inbound text directly from the nurse to the recruiter on
13 April 7th, 2023. Can you explain to the Court what this is?

14 A. Yes. So if we use our text software, inbound and outbound
15 texts go into our Bullhorn system. So the format you're
16 looking at here is the note made in our Bullhorn applicant
17 tracking system. So what it shows is Jordan Newstadt is the
18 nurse communicating with her new recruiter Elizabeth Streber.

19 Q. So if you look at the second page, there's a comment here
20 that says, "Oh, unfortunately RNN fired my favorite recruiter
21 after 17 years so I won't ever be working with this company
22 again. Nothing personal but thank you." Who sent that
23 message?

24 A. So this would have been Jordan, the nurse, texting
25 Elizabeth Streber, the new recruiter that took over this nurse

1 from Rachel.

2 Q. And does this message from Jordan Newstadt indicate -- lead
3 you to think that Ms. Shafer was reaching out to RNnetwork's
4 nurses?

5 A. Yes. We didn't publically share that she was fired. We
6 would have no reason to share this information with Jordan, the
7 nurse. And again, how did she know that her recruiter was
8 working again.

9 Q. Do you know what agency Jordan Newstadt, the nurse, is
10 working with now?

11 A. I presume she's working at AHS.

12 MS. SCHWARTZ: I'd like to move to have Exhibit 8
13 admitted into evidence.

14 THE COURT: Any objection?

15 MR. HECHT: Yeah, Your Honor, the same objection. But
16 we'll also add objection as to relevance.

17 THE COURT: Are you sure? This one doesn't seem to
18 hurt you.

19 MR. HECHT: All right. I will withdraw our objection,
20 Your Honor.

21 THE COURT: All right. Eight will come in.

22 (Received in evidence Plaintiff's Exhibit(s) 8.)

23 BY MS. SCHWARTZ:

24 Q. I would like to direct your attention back to Exhibit 2,
25 which is the employment agreement. If you can please turn to

1 paragraph 6, which is entitled "Non-solicitation of Healthcare
2 Personnel or clients." Are nurses considered healthcare
3 personnel or clients?

4 A. Yes, they are. They're considered clients of ours.

5 Q. So this non-solicitation provision says that the employee
6 agrees, during the covenant period, which is defined above as
7 one year following the employee termination, that she will not
8 solicit, recruit, offer or otherwise provide services or
9 attempt to solicit, recruit, offer or otherwise provide
10 services that are the same or similar to RNN's business to any
11 current, former, or prospective healthcare personnel or clients
12 of the company with whom the employee worked or serviced during
13 the last three years of the employee's agreement.

14 What does that mean?

15 MR. HECHT: Objection. Asking for a legal conclusion.

16 THE COURT: You can rephrase it. I mean, I'm going to
17 read everything and figure out what it means.

18 BY MS. SCHWARTZ:

19 Q. So I'm not asking for a legal conclusion. But as an
20 officer of the company that gives its employees these
21 agreements to sign, what does the language in this
22 non-solicitation provision mean to the business?

23 A. It means that as a nurse recruiter Rachel is not allowed to
24 reach out to any nurses for travel nurse assignments or
25 permanent nurse assignments for a period of one year.

1 Q. And was Ms. Shafer's communications with Haley Hohnhorst,
2 Jordan Newstadt, Emily Sporal, Amanda Fobar, were those
3 violations of her non-solicit agreement?

4 A. Yes, absolutely.

5 THE COURT: Well, how do you know Jordan Newstadt
6 didn't reach out to her first?

7 THE WITNESS: I do not know that.

8 THE COURT: Okay.

9 THE WITNESS: Yes.

10 THE COURT: All right. Next question.

11 BY MS. SCHWARTZ:

12 Q. We saw information pertaining to the thousands of nurses on
13 the exhibits we looked at earlier today that Rachel sent to
14 herself, as well as evidence that she had already moved some
15 nurses to AHS, or at least one nurse. Is an injunction still
16 necessary?

17 A. Yes, I believe so. She's proven that she doesn't have
18 regard for the employment agreement she's signed, and she --
19 there's a high likelihood she may end up with another
20 competitor and she'll have all the information with her. So
21 it's important to us that she honor her obligation to keep the
22 information she has confidential, to return anything that she
23 took from us, and for all of the information to be deleted.

24 MS. SCHWARTZ: Moving on, because AHS and Lisley are
25 no longer --

1 THE COURT: Sure.

2 BY MS. SCHWARTZ:

3 Q. Okay.

4 THE COURT: You know what? How about this? How about
5 we break for lunch, you can kind of look and see everything
6 that you covered, and you may not have anything else or you may
7 just have a little bit, and then we'll come back and keep going
8 at 2 o'clock.

9 MS. SCHWARTZ: Okay.

10 THE COURT: It's 12:45 now.

11 MR. HECHT: Your Honor, I will make another request,
12 if possible.

13 THE COURT: Sure.

14 MR. HECHT: Given the volume and this amount of data
15 that you just received, and most of it we've seen for the first
16 time right now, I would ask for the Court to give us a little
17 more time to review it before we do cross on all of these
18 documents.

19 THE COURT: Okay. A couple things. One is,
20 Ms. Schwartz, after this -- well, how much longer would you
21 think this witness will be? Probably not much longer based on
22 where you are now.

23 MS. SCHWARTZ: Maybe no more than three more minutes.

24 THE COURT: Okay. So I think -- we're still going to
25 break for lunch because three minutes can sometimes end up

1 being much longer. After this witness, do you have other
2 witnesses?

3 MS. SCHWARTZ: I do. The other two witnesses are very
4 short.

5 THE COURT: Okay.

6 MS. SCHWARTZ: And then there's Ms. Shafer.

7 THE COURT: Okay. And how much time are you asking
8 for, sir, to do what you need to do so that you can
9 meaningfully cross?

10 MR. HECHT: Your Honor, I would say more than, more
11 than the rest of today. I would say at least a few days would
12 be proper. But say if we can get at least a day or two, I
13 think that will help us to prepare.

14 THE COURT: Can you be more specific in terms of --
15 without playing out your defense, I'm not asking you to do
16 that, but I'm only trying to figure out an appropriate amount
17 of time based on your request.

18 MR. HECHT: Yes, so I would say I probably need about
19 five to seven working hours to prepare and be able to
20 prepare -- to create a proper defense for cross on this witness
21 given the voluminous information that we have here.

22 I also want to point out to the Court that I do
23 have -- tomorrow I have a mediation scheduled that's probably
24 going to be the whole day. It's not going to give me a lot of
25 time. But if the Court does not approve, I will try to find a

1 suitable replacement that can be there instead of me.

2 THE COURT: Well, here's my thought, actually. I
3 don't know what to do about your mediation tomorrow. The
4 problem with mediations is they're set well in advance and
5 there's Court requirements in terms of when they have to be.
6 If it's something where I can let the mediator know where we
7 are and maybe bump it to Friday or something for your
8 mediation, I'm happy to do that.

9 My thought is this. Kind of retooling. If you really
10 think three to five minutes, I'll have you finish your
11 examination, we'll break for the day, that will give you the
12 balance of the day, we come back in the morning and keep going
13 and we knock this out by the end of tomorrow.

14 The initial ask was one and a half to two days. So I
15 cleared out two days. So we would still be on the proper time
16 frame. I just want to finish everything in terms of the
17 evidence and the argument by close of business tomorrow.

18 MS. SCHWARTZ: Your Honor, Ms. Ruffy has a flight
19 tomorrow out of town and she will not be here, available
20 tomorrow, so perhaps we can just finish this witness today.

21 THE COURT: I mean, his whole --

22 MS. SCHWARTZ: I know.

23 THE COURT: -- request is as to this witness.

24 All right. I'm getting like too personal with all of
25 these questions. Where are you headed?

1 THE WITNESS: A business conference in Las Vegas until
2 Friday.

3 THE COURT: Okay. And you're leaving out of here
4 tomorrow morning?

5 THE WITNESS: 6:00 a.m.

6 THE COURT: Okay. So the reverse red-eye.

7 MS. SCHWARTZ: I have a suggestion.

8 THE COURT: Yes, ma'am.

9 MS. SCHWARTZ: What if we took some witnesses out of
10 turn. We finish the direct examination of Ms. Ruffy. We
11 finish the other two witnesses, because they will be very
12 short. Maybe there's time to start Ms. Shafer, maybe not. And
13 then Ms. Ruffy can come back next week or whenever Your Honor
14 would like her to to finish.

15 THE COURT: Okay. We can do that. Whenever I have
16 these motions and the time is of the evidence, I'm trying to get
17 it through. So as long as everyone is amenable to that, then
18 that will actually solve the problem on different levels too.
19 That will even give you more time, and you won't have to reset
20 your mediation or anything.

21 MR. HECHT: Okay.

22 MS. SCHWARTZ: The other option, Your Honor, is
23 because time is of the essence and we have been -- we are
24 concerned because of the situation that we have here, what if
25 we did just -- the reality is in these restrictive covenant

1 cases the parties generally do not exchange exhibits before
2 running into the preliminary injunction hearing. And the
3 majority of the exhibits I introduced today are emails that
4 came from Rachel or to Rachel.

5 So while I appreciate her lawyer would like to have
6 more time and says he's never seen these things before, I mean,
7 one of my suggestions would be just maybe make it a longer
8 lunch break so he can have more time and finish Ms. Ruffy
9 today, so we can go ahead and finish with the remaining
10 witnesses tomorrow. What I don't want to do is prejudice my
11 client by delaying these proceedings any longer knowing
12 Ms. Shafer is in possession of the information and doesn't
13 believe she needs to return it or stop using it.

14 THE COURT: Okay. It's really more up to you at this
15 point, Mr. Hecht. I mean, we can do it a couple ways. I'm not
16 sure exactly what you need to look over and go over with your
17 client. I don't want to get into your head on that. We could
18 also break until 4 o'clock and then -- but then you've got to
19 tell me that your cross is going to be an hour or less. I
20 don't know if you have five hours of cross. I mean, I don't
21 know. Tell me to the best you can what you think will work.

22 MR. HECHT: I still think -- my honest opinion is
23 based on my understanding of how much data was introduced right
24 now that we have seen for the first time, that I will need a
25 good few amount of hours to prepare. Whether I will be able to

1 do it in less than five hours, I don't know. And I don't have
2 a reasonable basis to believe I will be able to do it in less
3 than five hours.

4 THE COURT: All right. For record purposes, you're
5 talking about a lot of data that was introduced. I don't see
6 much data. I don't think you have to go through 2,543 nurses.
7 But, I mean, if you think you have to for some reason,
8 that's -- I certainly want to hear it in terms of your cross.
9 You know, that I don't know.

10 You don't know my schedule next week, right, in terms
11 of Monday, which is -- what's Monday, the 5th, 6th?

12 THE COURTROOM DEPUTY: Possible trial and then a
13 status conference at 11:00.

14 THE COURT: Does it say which case is the trial?

15 THE COURTROOM DEPUTY: US v Merilus. Let me look.

16 THE COURT: And the status conference is on what?

17 THE COURTROOM DEPUTY: At 11:00. Status conference is
18 on Munro v Fairchild Tropical Botanic Garden.

19 THE COURT: Oh, boy. Okay. What about the 7th?

20 THE COURTROOM DEPUTY: Nothing on the 7th.

21 THE COURT: Okay. All right. So then --

22 MS. SCHWARTZ: Your Honor, if I may say one thing. I
23 think I can finish with Ms. Ruffy right now in two questions.

24 THE COURT: All right. We're going to do that
25 regardless. And then I think I'm probably just going to have

1 you all come back next week.

2 MS. SCHWARTZ: Oh, okay.

3 THE COURT: Okay. So let's do this. Why don't you
4 finish your direct examination. I assume then that based on
5 the nature of the break -- because we'll come back Tuesday, the
6 7th, and use that day to resolve the case.

7 I assume then that, Mr. Hecht, you're essentially
8 going to waive all of your overruled objections anyway because
9 at that point you're going to have had --

10 MR. HECHT: Yes. Yes, Your Honor.

11 THE COURT: Sure.

12 MR. HECHT: Yes, if we continue on the 7th, I'm not
13 going to make anymore notice objections.

14 THE COURT: Okay.

15 MS. SCHWARTZ: One request, Your Honor. We do have
16 Ms. Reed here who is here just to testify very briefly about
17 the security measures the company takes that warrants trade
18 secret protection of this data. Her testimony will probably be
19 less than 15 minutes. She is here, and I was wondering if we
20 could just at least finish with her so that she does not need
21 to come back next week.

22 THE COURT: Sure. But we're going to have to do that
23 after lunch. I've gotta give everyone a break.

24 MS. SCHWARTZ: Yes, after lunch.

25 THE COURT: Okay. So let's do this. Why don't you

1 continue on with your witness, and we'll make sure that she
2 gets some sleep before that early morning flight, and then --

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: -- and then we'll -- once she's done,
5 we'll decide about a lunch break and what witnesses we can
6 finish today, and then we'll come back on Tuesday, the 7th.

7 MS. SCHWARTZ: Okay.

8 THE COURT: Okay.

9 BY MS. SCHWARTZ:

10 Q. All right. So Ms. Ruffy, you know, you testified today
11 that Ms. Shafer's taking of these documents, soliciting nurses,
12 and working at competitor AHS are violations of her agreement.

13 Do you trust that now she will comply with her
14 agreement absent a Court order requiring her not to compete or
15 solicit and to keep the information confidential?

16 A. I do not. She's already demonstrated that she's willing to
17 violate the agreements on all fronts, and I don't trust that
18 she will do it without a proper injunction.

19 Q. And at any point in time after signing her agreement did
20 Ms. Shafer come to you and say she was denied access to any
21 confidential or proprietary information?

22 A. She did not.

23 Q. At any point in time after signing her agreement did
24 Ms. Shafer say to you that she could no longer agree to its
25 terms?

1 A. No.

2 Q. And if Ms. Shafer were to take this information and bring
3 it to yet another competitor, would money be an adequate
4 remedy?

5 A. It would not. As we saw in the court today, this -- the
6 documents she took from us are our bread and butter. It's
7 every nurse we have working on assignment today that's actually
8 working now. And our market is so competitive, especially
9 these days, that any of this information would be highly
10 detrimental to the company.

11 MS. SCHWARTZ: Your Honor, that's all we have for this
12 witness.

13 THE COURT: Okay. Great.

14 All right. So, ma'am, you're still under oath.
15 You're still on the stand even though we're breaking up your
16 testimony for this time period.

17 THE WITNESS: Okay.

18 THE COURT: Obviously, you're allowed to be in court
19 because you're the representative here. So I just wanted to
20 caution you in that way, so that you remember you're still on
21 the stand.

22 THE WITNESS: Do I have to tell the truth all the way
23 through next week on everything then?

24 THE COURT: Not -- what happens in Vegas stays in
25 Vegas.

1 THE WITNESS: Okay. Thank you.

2 THE COURT: You don't have to worry about that.

3 All right. In terms of what we're going to do now,
4 let's take an hour and 15 minutes. We'll come back at 2:15.
5 We'll get as much done as we can. Our plan is then to come
6 back in the morning on Tuesday, the 7th of November, which is
7 just a week from today, and we'll knock everything out.

8 And then just so everybody has peace of mind, before
9 we leave today why don't we just talk about putting something
10 in place so that nobody has to worry that these records are
11 going to be used in the next week. I don't think there's going
12 to be any disagreement as to that. If there is, then we can
13 talk about it when we come back after lunch.

14 MS. SCHWARTZ: Okay.

15 THE COURT: Okay? All right. Thank you all very
16 much.

17 MS. SCHWARTZ: Thank you.

18 MR. HECHT: Thank you.

19 (Recess at 12:58 p.m.)

20 (Call to Order of the Court.)

21 THE COURT: Please have a seat.

22 We have a new courtroom deputy clerk, so there's a
23 little confusion. I didn't know she was out here.

24 THE COURTROOM DEPUTY: Sorry about that.

25 THE COURT: No worries at all.

1 So back on the record then. Do we have any issues
2 that came up before we keep going forward?

3 MS. SCHWARTZ: No, Your Honor.

4 THE COURT: Okay. Great. So we completed the direct
5 examination of one witness. We're going to kind of go out of
6 order based on some of the issues that were raised. And then
7 you had another witness that you wanted to call right now,
8 right?

9 MS. SCHWARTZ: Yes.

10 THE COURT: Okay. Whenever you're ready.

11 MS. SCHWARTZ: So the plaintiff would like to call
12 Amy Reed to the stand.

13 THE COURT: Sure.

14 THE COURTROOM DEPUTY: Good afternoon. Please remain
15 standing and raise your right hand.

16 AMY REED, PLAINTIFF'S WITNESS, SWORN

17 THE COURTROOM DEPUTY: Thank you. You may be seated.
18 Give your name again with the spelling for the record.

19 THE WITNESS: Yes. Amy Reed. A-M-Y, R-E-E-D.

20 THE COURTROOM DEPUTY: Thank you.

21 DIRECT EXAMINATION

22 BY MS. SCHWARTZ:

23 Q. Ms. Reed, are you currently employed?

24 A. Yes.

25 Q. Who is your employer?

1 A. CHG Healthcare Services.

2 Q. And how is CHG Healthcare related to RNnetwork?

3 A. CHG is the parent company of RNnetwork and several other
4 subsidiaries.

5 Q. Okay. And what is your position with CHG?

6 A. Vice president of product management.

7 Q. What are your job duties and responsibilities as the vice
8 president of product management?

9 A. I oversee the technology team that supports RNnetwork and
10 some of our subsidiaries. I also oversee deciding and choosing
11 technology, along with deploying it and the security that goes
12 around it.

13 Q. Are you familiar with the programs that RNnetwork has in
14 place to protect its confidential and trade secret information?

15 A. Yes.

16 Q. And what steps does CHG or RNN take to protect its
17 confidential trade secret information from getting into the
18 hands of a competitor?

19 A. A variety of ways. One of which was mentioned earlier, the
20 employment agreement. That's first and foremost just to ensure
21 that employees understand confidentiality, noncompete,
22 non-solicitation.

23 We also have a confidentiality agreement at the
24 division level to remind them. On our screens when we login,
25 username and password, before they can login it has information

1 again reminding them of the confidential nature of our data.

2 On top of that we have some security systems in place,
3 one of which is called Okta, O-K-T-A, which helps us protect
4 our systems.

5 Q. Okay. And does Okta -- can you explain a little bit more
6 about what kind of security Okta provides?

7 A. Yes. It's a user authentication system, an identity
8 software. It allows all of our employee to single sign in to
9 our systems that we give them access to through a username and
10 password. It also has multifactor authentication or MFA which
11 requires them to use multiple forms of identification to
12 identify this it's them logging into our systems before their
13 username and password. And that allows a single sign on to a
14 variety of our systems, of which Bullhorn, that was mentioned,
15 is the operating system for RNnetwork. So if any of our
16 employees try to go directly to the system itself to login,
17 they won't be able to. They will be directed back to our
18 single sign in system.

19 Q. Is it a program called Icon that the company uses? Icon
20 through Okta?

21 A. Okta. Well, it's our authentication system.

22 Q. Is there another program CHG uses or RNN to protect its
23 data call TextUs?

24 A. TextUs. So several years back, again, both for the
25 protection of our employees and protection of data of our

1 nurses and providers, we implemented TextUs. And that allows
2 our internal employees to be able to communicate with our
3 nurses and providers through a text messaging system. It
4 provides transparency for us to see that. Those test messages
5 flow into Bullhorn for all of us to be able to see the messages
6 that are going back and forth. It also protects our recruiters
7 by using their desk phone number instead of personal phones.
8 It allows them to upload that contact information to TextUs.
9 They can use it on their personal phone then, again
10 authenticating through our Okta system, or while in the office
11 or on personal computers.

12 Q. So just to be clear, recruiters can use their personal cell
13 phones to communicate with nurses, but as long as they're going
14 through TextUs, then their personal cell phone number doesn't
15 appear?

16 A. Yes.

17 Q. Is there any reason that a nurse recruiter should be using
18 their personal cell phone number to communicate with nurses at
19 RNnetwork?

20 A. Not to my knowledge. That's why we utilize the tool and
21 require them to use that, so we can see the communication.
22 It's not just for our protection. It's also for the nurses'
23 protection and their information.

24 Q. Is there any reason knowing that we have this -- knowing
25 that the company has this TextUs software, is there any reason

1 for a recruiter to be storing nurse clients' contact
2 information in their personal cell phones?

3 A. No.

4 Q. Is it a violation of company policy for them to be storing
5 nurse personal contact numbers and information in their
6 personal cell phones?

7 A. Yes.

8 Q. Does RNnetwork have any type of data theft software?

9 A. We do, we have a variety of them, between firewalls to look
10 for data breaches. But we also have software that scans our
11 system for any large data deletions or records that are being
12 deleted to be flagged. We also have it for large files.

13 Unfortunately, one of the files that was shared with
14 me isn't large enough. It's considered small. It was only
15 300 kilobytes. So it wasn't large enough to be scanned by our
16 system.

17 Now, with that said, we are looking at software to see
18 if it's the right thing to look at files that size, but we're
19 trying to balance allowing employees to do their job and trust
20 them, and that puts some security on our systems that it makes
21 if harder to do their job.

22 Q. And what is the file that you're referring to right now?

23 A. It was shared earlier. The working and awaiting.

24 Q. Does RNN use any other measures to protect its confidential
25 information and trade secrets?

1 A. Yes, there's a variety of things between our security
2 systems, cameras, badges in door systems, locking the file
3 cabinets, storage systems off site also help us protect that
4 information.

5 Q. Does the company use a privacy security team for any
6 reason?

7 A. We do. We have a privacy and security division that looks
8 at any regulations that are changing, real-time training, as
9 well as annual training, that all employees have to complete.

10 Q. And does RNnetwork limit access to information to employees
11 or does everyone have access to the entire database?

12 A. No. When employees are brought on, we look at the access
13 they need to our systems. Not only the systems themselves, but
14 the amount of access within that system. And then on a
15 quarterly basis we review all of those tools to ensure that the
16 employee in their current role still need access to that system
17 and at what level do they need access.

18 Q. So I want to turn your attention to what's already been
19 admitted into evidence as Plaintiff's Exhibit 13. It should be
20 in one of the exhibits in front of you.

21 A. Yes.

22 MS. SCHWARTZ: Okay. And just for everybody else,
23 this is the week ten working and awaiting spreadsheet with the
24 email that Ms. Shafer sent to herself on March 9th, Exhibit 13.

25

1 BY MS. SCHWARTZ:

2 Q. So do you recognize this document?

3 A. Yes.

4 Q. What is this document?

5 A. Working and awaiting. It's a list of nurses that are
6 currently working and those that should be beginning soon.

7 Q. So you can see on that email that Ms. Shafer had sent it to
8 her personal Gmail address. How would Ms. Shafer get this type
9 of information from the RNnetwork system?

10 A. It's a report out of our Bullhorn operating system that can
11 be downloaded.

12 Q. And can you think of any reason why Ms. Shafer would need
13 to send this working and awaiting list to her personal Gmail
14 account?

15 A. No reason that I can think of. The reason for Okta, one of
16 the reasons is to allow employees to access their phones
17 through their phones and personal computers, the same
18 information. It just requires them to login through our system
19 so that we can monitor it.

20 Q. So when she sent it to her personal Gmail address, not
21 through Okta, did that prohibit the company from monitoring it?

22 A. Yes.

23 Q. Is it a violation of RNN's policies to email this type of
24 information to a recruiter's personal email account?

25 A. Yes.

1 Q. And how would Ms. Shafer know that exporting this
2 information from RNN's system to her personal email account is
3 a violation of company policy?

4 A. A variety of ways. I mean, again, the employment agreement
5 spells it out, as well as every time we log into our computer
6 there is a statement about our data and the information and
7 tools they're utilizing, that they are owned by CHG before they
8 can be promoted to put in their username and password.

9 Q. I would like to show you what's been premarked as
10 Plaintiff's Exhibit 26. Do you recognize this document?

11 A. Yes.

12 Q. What is this?

13 A. This is what I was just mentioning. As we log into any of
14 our CHG systems, this prompt is given before username and
15 password is entered.

16 Q. Okay. And the prompt says that this computer is company
17 property. Company property and business information is the
18 sole and exclusive property of the company. Is there an
19 agreement anywhere in this prompt?

20 A. Yes, it says you agree to comply with all applicable
21 policies and procedures of the company regarding use,
22 disclosure, maintenance and security of business information.
23 And by using this computer, they're agreeing to that. So when
24 they enter their username and password, they're agreeing to
25 this statement.

1 Q. Did Ms. Shafer comply with her agreement when she emailed
2 these sheets to her personal Gmail account?

3 A. No.

4 MS. SCHWARTZ: I would like to move to admit
5 Exhibit 26 into evidence.

6 THE COURT: Any objection to that?

7 MR. HECHT: No.

8 THE COURT: Okay. So 26 will come in.

9 (Received in evidence Plaintiff's Exhibit(s) 26.)

10 BY MS. SCHWARTZ:

11 Q. Is there anything reason to think Ms. Shafer would not have
12 signed this acknowledgment or seen it when accessing the
13 system?

14 A. No. It's prompted every time you login or log out of our
15 computer systems.

16 Q. So every single day that she would login it would show up?

17 A. Yes.

18 MS. SCHWARTZ: I have no further questions. Thank
19 you.

20 THE COURT: Okay. Thank you.

21 Any cross for this witness?

22 MR. HECHT: Yes. I'll be brief, Your Honor.

23 THE COURT: Sure.

24 CROSS-EXAMINATION

25

1 BY MR. HECHT:

2 Q. Ms. Reed, you testified before about a program called
3 TextUs.

4 A. Yes.

5 Q. Can you spell it for me?

6 A. T-E-X-T-U-S.

7 Q. And you said that the TextUs is some kind of software that
8 employees use internally for text messaging?

9 A. Yes.

10 Q. Were you involved in setting up that software for RNN?

11 A. I was.

12 Q. And when was that?

13 A. Almost three years ago.

14 Q. Okay. So in 2012, back when Ms. Shafer signed her employee
15 agreement, did such a software like TextUs exist at RNN?

16 A. No.

17 Q. Okay.

18 A. But we do acknowledge our employee handbook every year,
19 which has the confidentiality information in it as well.

20 Q. Okay. We'll get to that in a second.

21 Now, you said that there was a policy in the company
22 that employees must use TextUs?

23 A. Well, sharing our information outside of those systems
24 violates the policy.

25 Q. No, I'm asking a specific question. Was there a policy in

1 the company that employees must use TextUs for texting?

2 A. No.

3 Q. There was no such policy?

4 A. No.

5 Q. So if a nurse recruiter would use her personal cell phone
6 to text, would that be a violation of the company policy?

7 A. Using our -- the internal CHG information, yes.

8 Q. No, I'm asking just a particular question. If an employee
9 is using her personal cell phone to text somebody, would that
10 be a violation of company policy? In and by itself is that a
11 violation of company policy?

12 A. No.

13 Q. Okay. But you did say before that using TextUs -- using
14 any information outside of TextUs would be a company violation
15 of policy. Is that what you testified earlier?

16 A. Yes.

17 Q. And what did you mean by that, that it would be a violation
18 of company policy?

19 A. They're taking -- if somebody took information out of our
20 systems and entered into their personal phone, that is against
21 our policy. We no longer can protect that information, and it
22 can be accessed by anybody public.

23 Q. Okay.

24 A. So personal demographic, PPI information shouldn't be
25 shared in their personal equipment without being logged in

1 through Okta.

2 Q. Okay. Now, when you say that taking information outside of
3 TextUs into a personal phone would be a violation of company
4 policy, which policy are you referring to?

5 A. Confidential information, as well as Exhibit P26 where it
6 states the information is owned by CHG.

7 Q. Do you -- so you say it's part of the employee company
8 policy, part of the employee handbook?

9 A. Yes.

10 Q. Do you have a copy of the employee handbook?

11 A. I do not have one here.

12 Q. Have you reviewed the employee handbook?

13 A. I have.

14 Q. When is the last time you reviewed it?

15 A. This week.

16 Q. Do you know which particular provision of the employee
17 handbook this would be a violation of?

18 A. Confidentiality.

19 Q. Just in general confidentiality. Can you be more specific?

20 A. It states the data that's owned by CHG is proprietary
21 information and shouldn't be shared outside of CHG and outside
22 of our systems, and it violates your employment agreement.

23 Q. Does it say anything about putting information on a
24 personal cell phone?

25 A. No.

1 Q. Does it say anything about emailing to a personal email
2 account?

3 A. No.

4 Q. Okay. So this is your interpretation of what
5 confidentiality means, that these actions would be a violation
6 of the company?

7 A. Yes.

8 Q. Okay. Thank you. One second.

9 Now let's move to Exhibit 26 that was introduced
10 before, which is a screenshot of the system; is that correct?

11 A. Yes.

12 Q. And I believe you testified also earlier that using
13 personal email would be a violation of this particular policy
14 also?

15 A. I testified that this is sharing. That any information
16 that CHG should be protected, and you're agreeing to that by
17 logging into the computer.

18 Q. Okay.

19 A. So the information that was accessed can only be accessed
20 after entering your username and password on this prompt.

21 Q. So did you testify that sharing this information on a
22 personal email account is a violation of this policy?

23 A. Yes.

24 Q. Okay. Now, if you read the policy, on the third line it
25 says -- there's something about incidental personal use is

1 permitted. Do you see that language in the policy?

2 A. Yes.

3 Q. What does incidental personal use mean?

4 A. Again, interpretation means that they can use our Internet
5 even though it's a CHG system. If they happen to go to the
6 Internet and look something up during the day, they just need
7 to understand it's okay to use that, but it will be monitored.

8 Q. Okay. So you're saying incidental personal use does not
9 apply to the information that was obtained through that system
10 just in general for the use of the Internet of the company?

11 A. Yes. And incidentally used, but using the actual data from
12 CHG is an incidental use.

13 Q. Okay. So --

14 A. Personal information.

15 Q. Let me understand. Are you saying that incidental use
16 refers to giving permission to a recruiter like Ms. Shafer to
17 use the Internet in general? That's what incidental use means?

18 A. Yes.

19 Q. So she needs permission from RNN to do that, right?

20 A. Yes.

21 Q. Okay. Without RNN's permission, she would not be allowed
22 to use the Internet?

23 A. Correct.

24 Q. Okay. Even though she works from home?

25 A. Correct.

1 Q. Okay. Would she be allowed to use her phone without RNN's
2 permission?

3 A. Yes.

4 Q. And that wouldn't be incidental use?

5 A. Incidental use of using her telephone in general? It's her
6 telephone. Accessing our data is different.

7 Q. Okay. Can you point out to me what particular word or
8 language in this policy would be violated by sending this
9 information to a personal email account?

10 A. Business information is the sole and exclusive property of
11 the company. And it goes on to say, regarding use, disclosure,
12 maintenance and security of the business information. That was
13 business information that was forwarded outside of our
14 firewalls that we no longer have access to watch.

15 Q. Does it say here anywhere that you're not allowed to take
16 this information outside the firewall?

17 A. It does not.

18 Q. It does not.

19 So based on your understanding what it means that it's
20 company property, your interpretation is that company property
21 is not allowed to be sent to a personal email account; is that
22 correct?

23 A. Correct.

24 Q. Okay. So there's no other language other than the fact
25 that it's company property to suggest that sending any

1 information to a personal email account violates this policy?

2 A. Yes.

3 MR. HECHT: Okay. No further questions. Thank you.

4 THE COURT: Ms. Schwartz, any follow-ups?

5 MS. SCHWARTZ: A couple.

6 REDIRECT EXAMINATION

7 BY MS. SCHWARTZ:

8 Q. Just to be clear, Plaintiff's Exhibit 26 is the prompt that
9 appears on the screen when an employee is logging on and
10 accessing data, correct?

11 A. Correct.

12 Q. It is not the sole basis for the company's confidentiality
13 rules and requirements and policies, is it?

14 A. Correct. It's not a full policy.

15 Q. You testified there's another policy, an employee handbook
16 that discusses confidentiality of company information, correct?

17 A. Correct.

18 Q. And we also saw earlier today the noncompete and
19 confidentiality and non-disclosure agreements that employees
20 are required to sign, correct?

21 A. Correct.

22 Q. So this one exhibit, 26, is just -- isn't it true it's just
23 one small part of the steps that CHG and RNN take to protect
24 its data?

25 A. Correct. It's one step. It's a reminder. It's not the

1 policy.

2 Q. Thank you.

3 MS. SCHWARTZ: I have no further questions.

4 THE COURT: Thank you, Ms. Schwartz.

5 Mr. Hecht, anything else?

6 MR. HECHT: Just one.

7 THE COURT: Sure.

8 RECROSS-EXAMINATION

9 BY MR. HECHT:

10 Q. So just to be clear, you just clarified that this is just
11 one part of the policy, but there's a whole bunch of other
12 policies, such as the noncompete, employee handbook, and all of
13 the other policies that makes up the whole policy, correct?

14 A. Correct.

15 Q. Have you seen in any of those policies, any document that
16 makes up the entire confidential policy of the company anywhere
17 that is says that you are not allowed to forward company
18 information to a personal email account?

19 A. No.

20 MR. HECHT: Thank you.

21 THE COURT: Okay. Thank you, Ms. Reed. Appreciate
22 it.

23 (Witness was excused.)

24 THE COURT: And then --

25 MS. SCHWARTZ: I'm sorry. Did you say I could ask her

1 one more thing?

2 THE COURT: Oh.

3 MS. SCHWARTZ: Or she was stepping down?

4 THE COURT: Yes, she's stepping down.

5 MS. SCHWARTZ: Okay.

6 THE COURT: And then, Ms. Schwartz, do you have
7 another witness?

8 MS. SCHWARTZ: Yes. Plaintiff would like to call
9 Keela Briles to the stand.

10 THE COURTROOM DEPUTY: Hi. Please raise your right
11 hand.

12 KEELA BRILES, PLAINTIFF'S WITNESS, SWORN

13 THE COURTROOM DEPUTY: State your name again.

14 THE WITNESS: Keela Briles. K-E-E-L-A, B-R-I-L-E-S.

15 THE COURTROOM DEPUTY: Thank you.

16 DIRECT EXAMINATION

17 BY MS. SCHWARTZ:

18 Q. Ms. Briles, are you currently employed?

19 A. Yes.

20 Q. Who is your employer?

21 A. CHG Healthcare.

22 Q. And what is your position with CHG?

23 A. Employee relations.

24 Q. And in your role as employee relations, do you support
25 RNnetwork?

1 A. Yes.

2 Q. What are your job duties as an employee relations
3 consultant?

4 A. It's basically an HR function. Any other company would
5 call it HR. So I do investigations, separations, employee -- I
6 advocate for employees when needed, work with leadership on
7 progressive disciplinary action, and ensuring that we're being
8 fair and consistent across the board.

9 Q. Do you know the defendant Rachel Shafer?

10 A. Yes.

11 Q. How do you know her?

12 A. She was a nurse recruiter at RNnetwork.

13 Q. And how did her employment with RNnetwork end?

14 A. We separated her.

15 Q. What was the reason for that?

16 A. Her behavior continued to not align with our core values.

17 Q. And had she been given prior notices before her
18 termination?

19 A. Yes. So she has been on a performance improvement plan in
20 2018, she was also on a performance improvement plan in 2020,
21 and then another performance improvement plan in 2023 all for
22 her behavior: Creating a toxic work environment and bullying
23 others.

24 Q. Earlier today we heard testimony from Ms. Ruffy about how
25 RNnetwork learned that Rachel Shafer was working at AHS. Were

1 you involved at all in the investigation in determining whether
2 Ms. Shafer took information with her when she left?

3 A. Yes.

4 Q. And what did you find?

5 A. I went through her email and found that she had sent
6 several emails, approximately 20 or so, to her personal Gmail
7 accounts.

8 Q. Do you recall what date range she had sent those emails?

9 A. Yes, they started and March 9th and went through
10 March 30th.

11 Q. And was March 30th her last day?

12 A. Yes.

13 Q. Why is -- was the March 9th date significant?

14 A. Yes. So her leader had met with her on March 9th to let
15 her know that we continue to see performance gaps and reminded
16 her that if she continues to create a toxic work environment or
17 bully others, she would be separated. And then her leader
18 emailed that to her as well on March 9th. So that's when she
19 started sending herself emails.

20 Q. What type of documents did you find that Ms. Shafer had
21 sent to herself in the emails?

22 A. She sent her resume to herself several times. She had sent
23 a link to apply for a job at a competitor. She had sent
24 herself the working and awaiting spreadsheet. She had sent
25 herself TOA. And she had also sent herself jobs that RNnetwork

1 was currently working on.

2 Q. What do you mean jobs that that RNN was working on?

3 A. So our consultant would email out to our recruiters saying,
4 hey, we have this job, and we're looking for X, Y, and Z out of
5 a nurse. And so she sent that to herself, information a
6 competitor would love to have because they would want to work
7 on that job as well.

8 Q. In front of you is a bunch of exhibits. Could you take a
9 look at -- just quickly and let me know if 11, 12, 13, 15, 19,
10 and 20 are emails that you found Ms. Shafer had sent to
11 herself?

12 A. Yes. Hold, please.

13 MR. HECHT: I'm sorry. Which numbers did you have?

14 MS. SCHWARTZ: All the ones she sent to herself that
15 we used today.

16 THE WITNESS: Yes.

17 BY MS. SCHWARTZ:

18 Q. Did you come to learn -- strike that.

19 During your investigation of Ms. Shafer's post
20 employment activities, did you receive information about
21 Ms. Shafer soliciting RNN nurses from anyone at AHS?

22 A. Yes.

23 Q. What happened?

24 A. I received an anonymous call from a recruiter at AHS
25 stating that she had been taking RNnetwork nurses and putting

1 them to work at AHS.

2 Q. I'm going to show you what's been premarked as Plaintiff's
3 Exhibit 22.

4 A. Is that one up here?

5 Q. No.

6 A. Okay.

7 Q. Do you recognize this document?

8 A. Yes.

9 Q. What is this?

10 A. This is an email that I sent to my senior director just
11 from notes from the call that I had with the anonymous caller
12 that called me.

13 Q. Is Andrea your senior director?

14 A. Yes.

15 Q. And did you investigate whether these nurses -- strike
16 that.

17 Let's look at the first paragraph.

18 A. Okay.

19 Q. Why are all these nurses' names on your memo?

20 A. These are nurses that the caller stated that Ms. Shafer was
21 currently working with.

22 Q. And why would the caller believe you're interested in
23 knowing what nurses she was working with? Were they RNN
24 nurses?

25 A. Yes, that she had put into the AHS system.

1 Q. Did you investigate whether these nurses had ceased doing
2 business with RNnetwork after Ms. Shafer left?

3 A. We did. We tried to reach out to them, and we had a few
4 that were nonresponsive to our phone calls, and then we had a
5 few that said they were going to work with Rachel at AHS.

6 Q. So that was for these nine nurses specifically identified.
7 But did the caller report how many nurses Rachel already had on
8 assignment by August 9, 2023?

9 A. He said that she had already taken 43 nurses from
10 RNnetwork.

11 Q. You noted that he told you she has about 80 submissions a
12 week. What does "submissions per week" mean?

13 A. That means how many nurses she was putting into a status to
14 submit to work for jobs.

15 Q. So those were the nurses she was presenting for jobs?

16 A. Yes. Thank you.

17 Q. The third bullet point from the bottom you wrote, "She is
18 telling travelers to give 2 weeks' notice while you get a
19 traveler submittal ready is what she is telling nurses - as
20 seen in their database." What does that mean?

21 A. So he was saying that she was asking nurses to give their
22 two-week notice, and during that time she would be
23 credentialing them at AHS so that she would be able to put them
24 to work.

25 Q. In the first two bullet points you wrote that the AHS

1 employee said, "she is calling these providers from her
2 personal cell phone (noted in their system), and lots of
3 history added on these travelers that she would never know
4 without stealing them." Is that what he told you?

5 A. Yes.

6 Q. What does that mean?

7 A. It means that she was using her personal cell phone versus
8 the AHS system so that other recruiters wouldn't be able to
9 access the full information. And then as far as history, that
10 was about knowing their shift, their specialties, things that
11 you wouldn't know unless you had worked with them previously.

12 Q. In the eighth bullet point down you wrote, "In just 2
13 months she got 8 people on assignment - openly celebrated by
14 leadership at his company - makes us all look bad." What does
15 that mean?

16 A. It means that the newer recruiters were often compared to
17 Rachel at AHS, and they were saying why aren't you making these
18 KPIs, why aren't you doing this well. And he felt it was
19 making him look bad because he had to start with a fresh book
20 of business, which is what Rachel didn't do. She came with her
21 RNN book of business.

22 Q. So I want to turn your attention to actually the screen,
23 which is the Excel spreadsheet from Exhibit 13, which is the
24 week ten working and awaiting sheets.

25 MS. SCHWARTZ: Oh. Do you have it up there?

1 MR. SCHULTZ: It's going up.

2 BY MS. SCHWARTZ:

3 Q. SO if you could look, we're going to scroll down to nurse
4 number 1,572. Do you recognize this name Alicia Marcia
5 Billings?

6 A. Yes, that's one of the nurses that the caller mentioned was
7 working at AHS for Rachel.

8 Q. And is she one of the nurses that RNnetwork had on
9 assignment when Rachel left as her name is in the working and
10 awaiting document?

11 A. Yes, this is a spreadsheet of all nurses that are currently
12 working. So she was working with us at that time.

13 Q. Okay. If you can please take a look at nurse number 919.

14 A. Yes.

15 Q. Okay. Do you recognize this name Matthew Dean?

16 A. Yes, also a nurse that the caller mentioned.

17 Q. Okay. What did the caller mention about Matthew Dean?

18 A. The same thing. That he was going to work for Rachel at
19 AHS. And this was a nurse that was working with us at
20 RNnetwork.

21 Q. And he was actually working or awaiting work as of week
22 ten, the March Excel spreadsheet printout, correct?

23 A. Correct.

24 Q. All right. And if you can look at -- in front of you
25 there's Plaintiff's Exhibit 8. It's a document. Just let me

1 know when you have that.

2 A. Got it.

3 Q. Do you see the name Haley Hohnhorst?

4 A. Yes.

5 Q. And do you know who Haley Hohnhorst is?

6 A. Yes.

7 Q. Who is she?

8 A. She is a nurse that was working with us that said she's
9 going to go back to her old recruiter and stop working with us.

10 Q. Okay. So now if we can look at nurse number 1,628 on the
11 spreadsheet that Ms. Shafer emailed to herself, Exhibit 13.

12 Does Haley Hohnhorst's name appear on this spreadsheet?

13 A. Yes.

14 Q. With her contact information?

15 A. Yes.

16 Q. And her last date of the assignment? Her start and end
17 date of the assignment she was currently on?

18 A. Yes.

19 Q. And her shift that she prefers --

20 A. Yes.

21 Q. -- is that on there?

22 And what about her specialty? Is that on there too?

23 A. Her specialty's on here, her email address is on here, and
24 the hours that she prefers, the night rotation.

25 MS. SCHWARTZ: I have no further questions.

1 Oh, I would like to move into evidence Plaintiff's
2 Exhibit 22.

3 THE COURT: All right. Any objection to Plaintiff's
4 22?

5 MR. HECHT: Same, Your Honor.

6 THE COURT: And same in terms of timeliness?

7 MR. HECHT: Of the notice that we haven't seen this
8 before.

9 THE COURT: Okay. I'm going to overrule that
10 objection. Twenty-two will come into evidence.

11 (Received in evidence Plaintiff's Exhibit(s) 22.)

12 THE COURT: And then any cross?

13 MR. HECHT: Your Honor, also I would like to point out
14 that given her evidence is primarily on this document that we
15 haven't seen before, that we would request some time to review
16 it before we can do cross.

17 THE COURT: So this document is a one-page letter.
18 I'm not sure how long you would need to review a one-page
19 letter.

20 MR. HECHT: What I want to do is, there are eight
21 names of nurses that they claim that goes to show a certain
22 behavior of my client, and I would like to be able to go
23 through these eight names and figure out what actually happened
24 to them. I mean nine names, actually.

25 THE COURT: There's nine plus now Haley Hohnhorst. So

1 ten really.

2 Look, I mean, I'm trying to give you the time you need
3 on certain things, but this relates to ten nurses that worked
4 at RNN that allegedly were called by your client and moved from
5 RNN to AHS. So I think you gotta either cross or not. I mean,
6 this was all disclosed on Friday of last week.

7 MR. HECHT: Okay. Okay, Your Honor. We will cross.

8 CROSS-EXAMINATION

9 BY MR. HECHT:

10 Q. Okay. Ms. Biles, is that your name? B-I-L-E-S?

11 A. Briles.

12 Q. Briles. Okay. With the R.

13 Ms. Briles, you testified before that you were
14 involved also in the investigation?

15 A. Yes.

16 Q. Okay. And you said that part of your investigation was to
17 go through Ms. Shafer's emails?

18 A. Correct.

19 Q. Okay. Are you trained in IT?

20 A. No.

21 Q. So how did you search Ms. Shafer's emails?

22 A. I went to the sent folder and looked at what she sent to
23 her Gmail account. I searched first by her Gmail address and
24 saw what she sent to herself, and then I just start
25 additionally going through all of them to make sure I didn't

1 miss any.

2 Q. Now, when you looked in that sent folder, did you notice
3 how long back the sent folder was retaining emails in there?

4 A. I didn't.

5 Q. Okay. So is it possible that the sent folder only had
6 emails let's say from the last 90 days?

7 A. Potentially, but all of the emails that we're talking about
8 were emailed between March 9th and March 30th.

9 Q. Okay. That wasn't my question. My question is when you
10 looked in the sent folder, is it possible that it only had
11 emails let's say for the last 90 days that were sent, not all
12 the emails?

13 MS. SCHWARTZ: Objection. Calls for speculation.

14 THE COURT: I think she already answered that she
15 didn't look, so anything is possible.

16 BY MR. HECHT:

17 Q. And you said that as part of your investigation you saw
18 some emails related to jobs?

19 A. Yes.

20 Q. Okay. Can you elaborate what emails you're referring to
21 when you said that she was emailing herself some jobs from RNN?

22 A. Yes. I'm not sure if they're printed here. Do you mind if
23 I go through and look?

24 Q. Sure.

25 A. Okay. But they do say the client, they say the shift, they

1 say the specialty of the job that they're -- that RNN's looking
2 for nurses to fill.

3 Q. Okay. Can you point me to a specific email that -- where
4 she emailed herself certain jobs?

5 MS. SCHWARTZ: Objection, Your Honor. Your Honor,
6 these are not exhibits that were introduced through Ms. Briles.
7 He's asking her to search through documents, she doesn't even
8 know what's been admitted into evidence, to see if she can find
9 the document that may or may not even be in there.

10 THE COURT: Okay. So I guess your question is if she
11 knows off the top of her head like dates of emails or --

12 MR. HECHT: If she can identify a particular email
13 that she found that talks about jobs.

14 THE COURT: Sure. So to the extent you can in terms
15 of your memory. I don't know that you can look through what's
16 so far been admitted into evidence.

17 THE WITNESS: Right. Yeah, so it would be -- like I
18 said, I know that there were at least two that were jobs that
19 were sent from our client's side, consultants, to our
20 recruiters stating the client, the specialty, the shift that
21 the client was looking for for our recruiters to fill the job.

22 BY MR. HECHT:

23 Q. Okay. Do you remember the names of those clients?

24 A. No, not off the top of my head.

25 Q. As part of your investigation when you saw the names of

1 these clients, you said there were at least two, did you check
2 to see whether these clients actually left RNN and went to work
3 for someone else?

4 A. Well, it was client side so it's a facility. So they
5 potentially were -- they -- so they wouldn't have gone to work
6 with Rachel as a recruiter because Rachel had provider side and
7 this was our clients' side.

8 Q. Okay. So these were not names of nurses then that you
9 found, right?

10 A. No, it was a job that she could still take to AHS and say,
11 hey, I know a job, go after that job so I can fill that job.

12 Q. Okay. So just so I understand, these were not jobs listing
13 a nurse's personal information, right?

14 A. No. It was jobs listing job information that still would
15 be great for a competitor to have.

16 Q. So it would be like similar to let's say a hospital saying
17 we need a nurse?

18 A. We need an ER nurse on "X" dates for "X" shift, correct.

19 Q. Now, is it common in that industry that when a hospital
20 needs a nurse, they put out the notice to everybody saying I
21 need a nurse?

22 A. Well, our client side consultants would share it with all
23 of the recruiters so the recruiters knew to recruit nurses for
24 that position or to pull from their current database to fill
25 that position.

1 Q. Okay. No, that wasn't my question. My question is when,
2 let's say, a hospital or some kind of facility needs a nurse,
3 would they put it out to the public to say we are looking for a
4 nurse?

5 A. Not if they're working with a staffing agency. They would
6 just share it with the agency.

7 Q. So sometimes they would put it out to the public, sometimes
8 they wouldn't?

9 MS. SCHWARTZ: Objection. Mischaracterizes her
10 testimony.

11 THE COURT: I'll allow the question. You can answer
12 the best you can.

13 THE WITNESS: Yeah, from an HR perspective that's not
14 really something that I would know. So I don't know how to
15 answer that.

16 BY MR. HECHT:

17 Q. So you don't know whether these jobs that Ms. Shafer
18 emailed herself were jobs that were publicly available to
19 everybody on the Internet, correct?

20 A. No, I don't know that -- they could potentially have been
21 available on the Internet or on the Internet of course. But
22 again, they would only be hiring through staffing agencies.

23 Q. Did you check as part of your investigation to see whether
24 those jobs are publically available on the Internet?

25 A. I didn't. I just saw that she emailed them to herself

1 potentially to use with a competitor.

2 Q. Okay. But you didn't investigate whether this information
3 was available through the Internet, correct?

4 A. No.

5 Q. Okay. And you don't recall the names of these facilities
6 either, correct?

7 A. No.

8 Q. Okay. Now, moving onto your email dated August 9, 2023,
9 where you emailed to Andrea, correct?

10 A. Yes.

11 Q. And you said you received an anonymous caller on Ring
12 Central?

13 A. Correct.

14 Q. What is Ring Central?

15 A. It is one of -- it's an app that we use to -- for our work
16 phone.

17 Q. Okay. So would that be some kind of a phone line?

18 A. Yes.

19 Q. Okay. So this was a telephone call that you received?

20 A. Correct.

21 Q. And you personally picked up the phone?

22 A. I didn't the first time. He left me a voice mail, and then
23 I checked the voice mail and waited, and he ended up calling me
24 back pretty quickly again, a second time, and then I answered.

25 Q. Okay. Now, when he left you a voice mail, did he leave you

1 a callback number?

2 A. He didn't. But Ring Central, it has caller ID. So I could
3 see his name and phone number.

4 Q. So you could see his name and his phone number?

5 A. Yes.

6 Q. And what was the name that you saw?

7 A. Well, he asked to be -- he asked to remain anonymous, but
8 his name was Marc Hester. He's a -- we looked him up on
9 LinkedIn. He's a recruiter at AHS.

10 Q. Okay.

11 A. He started a couple months before Rachel.

12 Q. So it was not really an anonymous caller then, it was just
13 he asked you not to disclose his name?

14 A. Yes.

15 Q. Okay. How long did that phone call last?

16 A. It wasn't very long. But I did keep him a little bit
17 longer because I was trying to type everything that he said
18 word for word. So I would say probably 15 minutes. But again,
19 I don't know exactly for sure how long.

20 Q. Okay. And you said he gave you -- I think you put down in
21 the email nine individual nurses?

22 A. Correct.

23 Q. And what did he tell you about these nine individual
24 nurses?

25 A. That they were working for AHS.

1 Q. Did he tell you that all of these nurses are working at
2 AHS?

3 A. Yes, under Rachel.

4 Q. Okay. And what else did he tell you about these nine
5 nurses?

6 A. He was just giving examples of nurses that she knew a lot
7 of information about and had very quickly, after she had
8 started, was able to put to work.

9 Q. Okay. Did he tell you that these nurses were RNN nurses?

10 A. No, we looked that up in our system ourselves.

11 Q. Okay. And you mentioned before that when you looked it up,
12 you looked up some of them but not all; is that correct?

13 A. Oh, these searches? We looked up all these nurses, yes.

14 Q. So all of these nine nurses were working for RNN?

15 A. They were working for RNnetwork.

16 Q. They were working for RNnetwork?

17 A. Yes.

18 Q. And when you say they were working for RNnetwork, when did
19 they stop working for RNnetwork?

20 A. I don't have the dates for all of them in front of me. I'm
21 not sure.

22 Q. But at that time -- I guess this call took place on
23 August 9, 2023. Did you find any of these nurses that were
24 still working for RNnetwork as of August 9, 2023?

25 A. No.

1 Q. So none of them was working for RNnetwork on August 9,
2 2023?

3 A. No, they were working -- they would have been working for
4 AHS at that time, according to the caller.

5 Q. I'm asking as part of your verification to see whether they
6 worked for RNN. Did you verify that none of them was working
7 for RNN as of August 9, 2023?

8 A. Yes. Correct.

9 Q. Okay. And do you know the last date that any of these
10 nurses worked for RNN?

11 A. I don't recall that.

12 Q. Was that part of -- did you check that at the time?

13 A. Yes.

14 Q. And you verified that it was prior to August 9, 2023?

15 A. Correct.

16 Q. Okay. Now, after August 9, 2023, did you go back to check
17 again to see whether any of these nurses came back to work for
18 RNN?

19 A. I did not.

20 Q. Okay. So would it be possible that some of these nurses
21 are currently working for RNN?

22 A. Yes.

23 Q. Okay. Now, did that caller express animosity towards
24 Rachel Shafer?

25 A. Not to her personally. Just the situation.

1 Q. Can you describe that animosity?

2 A. Just like he said. Like it's openly celebrated by
3 leadership, and it was making him as well as other new
4 recruiters look bad.

5 Q. Okay. So was it your understanding that that caller was
6 personally upset about it?

7 A. Yes.

8 Q. Now, in one of the bullet points you have you say that she
9 has about 80 submissions a week currently. What's your
10 understanding of the word 80 submissions a week?

11 A. That she had 80 nurses that she submitted or -- to
12 different jobs, different facilities at AHS.

13 Q. What does "submitted" mean?

14 A. Presented them to work. Like here's this nurse and here's
15 all their information, and then the client would choose if they
16 wanted to interview and work with that nurse.

17 Q. In your experience when you do a submission, is there some
18 kind of documentation related to that submission?

19 A. I'm not in sales. I'm in HR. But I know that they note it
20 and -- from an RNnetwork standpoint, they know in Bullhorn and
21 the nurse actually moves through the submission to the hire or
22 to the next steps.

23 Q. Okay. So in your experience you don't know whether a
24 submission would be documented or not?

25 MS. SCHWARTZ: Objection.

1 THE WITNESS: At RNnetwork a submission would be
2 documented, yes. You have to put in Bullhorn that you are
3 submitting the nurse for the job.

4 BY MR. HECHT:

5 Q. Okay. So in your experience at RNnetwork when there is a
6 submission, there is a record of that submission in the system,
7 correct?

8 A. Yes.

9 Q. Okay. Do you have any reason to believe that AHS would not
10 follow the same system that a submission would be documented in
11 their system?

12 A. I don't know what systems they use. I know that when I was
13 talking to the caller, he was actively typing in nurses' names
14 and reading them to me. So I would assume that they used a
15 similar system.

16 Q. What do you mean by "actively typing"?

17 A. He was writing. He was looking under Rachel and pulling
18 nurses' names to share with me.

19 Q. So it was your understanding that while he was conveying
20 this information, he was looking at some kind of system and
21 that's where he was getting the information from?

22 A. Correct.

23 Q. Okay. And so you said you had no reason to believe that
24 they would use a different type of system than RNN?

25 A. Correct.

1 Q. Okay. Now, on bullet point three you say "These providers
2 are already on assignment. She has 43 already taken from RNN."
3 What does "already taken" mean?

4 A. That she had worked with the RNnetwork that came with her
5 to AHS.

6 Q. So would taken mean that she put him on assignment?

7 A. I just wrote his words, so I'm not sure what he exactly
8 meant in that moment. But he did say that were already on
9 assignment and taken from RNnetwork, so yes.

10 Q. What is your understanding of "already on assignment" mean?

11 A. That they were already working on an assignment at AHS
12 under Rachel.

13 Q. Okay. So would that mean that these nurses already signed
14 a contract with AHS?

15 A. Yes.

16 Q. Okay. Now, in bullet point number eight you said "in just
17 2 months she got 8 people on assignment," right?

18 Wouldn't that be a contradiction to bullet point
19 number three where she says she has already 43 taken?

20 A. I think he was referring to like overall she has the 43,
21 but at that -- in her first two months she already got eight
22 nurses on assignment, which was typically unheard of in the
23 recruitment world.

24 Q. What is your understanding, how long has Rachel been
25 working for AHS at that time?

1 A. I don't know when she started there.

2 Q. Okay. So let me understand clearly how you explained this
3 discrepancy. You're saying that eight was just in the first
4 two months and 43 was in the overall time?

5 A. Correct.

6 Q. So if it turns out that at that time she only worked there
7 for two months, then these two would be a contradiction?

8 A. Then the caller would have told me two different things,
9 and I just took notes of what he was saying.

10 Q. Okay. Now, if you look at the bullet point, the one before
11 the last bullet point, it says "She started in May and have 43
12 already," right?

13 A. Uh-huh.

14 Q. So basically he told you when she started working there,
15 correct?

16 A. Yeah.

17 Q. And how many months are between May and August?

18 A. Four.

19 Q. And did he tell you that these 43 submissions were all from
20 RNN?

21 A. No.

22 Q. So the only one he mentioned from RNN were eight?

23 A. By name, yes.

24 Q. And "by name" you mean from the first list that he gave you
25 there?

1 A. Correct.

2 Q. Okay. But that list is nine, not eight, correct?

3 A. Yes.

4 Q. So there were a lot of inconsistencies in the information
5 he gave you?

6 A. I wouldn't say they were inconsistencies. He was just
7 sharing information. It may not have been in the correct
8 chronological order, but overall his information seems to
9 match.

10 Q. Okay. Was this the first time that you got such an
11 anonymous caller telling on other recruiters?

12 A. Like in my role --

13 Q. Yes.

14 A. -- in general? Yes.

15 Q. Okay. Did you record that conversation?

16 A. No.

17 Q. Do you still have a recording of the voice mail he left
18 you?

19 A. Yes.

20 MR. HECHT: I don't have any further questions at this
21 time.

22 THE COURT: Okay. Thank you, Mr. Hecht.

23 Ms. Schwartz, any follow-ups?

24 MS. SCHWARTZ: No follow-up, Your Honor.

25 THE COURT: Great. Okay. Thank you, Ms. Briles.

1 THE WITNESS: Thank you.

2 (Witness was excused.)

3 THE COURT: And then, Ms. Schwartz, what would you
4 like to do at this point? Is this a time where we should break
5 and come back on Tuesday to finish up with your witness, or
6 what's your plan?

7 MS. SCHWARTZ: So my last witness, Your Honor, is
8 Ms. Shafer, and I don't believe we will even finish the direct.
9 It's already 3:20, and you mentioned I think around 4:00 or
10 4:30. So I think if we're going to be coming back for another
11 day, it's best to just continue with Ms. Shafer after
12 Ms. Ruffy's cross-examination.

13 THE COURT: All right. And any issues, Mr. Hecht,
14 from your perspective?

15 MR. HECHT: No issues. But I would just ask the
16 Court -- maybe I'm offering a suggestion -- that if she wants
17 to call Ms. Shafer as a witness and Ms. Shafer is also our
18 witness, maybe she can do -- we would agree to her -- when she
19 does the cross on our witness, to use her also as the primary
20 for her so we don't have to have her twice on direct. Would
21 you be open to something like that? That may save some time
22 also I would think.

23 THE COURT: Well, your client's your only witness,
24 right?

25 MR. HECHT: Correct.

1 THE COURT: So what we can do is assuming that the one
2 witness that has cross left is the last plaintiff's witness,
3 we'll do that cross, and then the only witness left would be
4 your client. And so we can kind of do it all in one pot. I
5 mean no disrespect. It's actually a compliment. You've been
6 leading your own witnesses pretty well. So I think you can
7 both lead or do it however you want with Ms. Shafer as long as
8 there's no objection.

9 MR. HECHT: Yes.

10 MS. SCHWARTZ: I guess I wasn't really clear on what
11 his question was. And my thought was since she's on both
12 witness lists, we would just both do a direct examination.

13 THE COURT: So, look, that's fine. I will just tell
14 you I think where his question comes from is most of these
15 hearings that I do, the defendant gets called twice.

16 MS. SCHWARTZ: Okay.

17 THE COURT: From my perspective it's not the best use
18 of time. But the way this is going, since it's all going to be
19 together, we might as well just call her once. And I think
20 he's offering that up.

21 MS. SCHWARTZ: That's generally how I handle these
22 hearings, Your Honor, and that's why she's last, so -- for that
23 reason, so that we would not call her twice.

24 THE COURT: Better for me. As long as you guys are on
25 board with that, I'm fine. That would be great.

1 So how about 10 o'clock, Tuesday, the 7th. And we'll
2 just keep going forward.

3 Mr. Hecht, you know, right at this point some more
4 evidence has come out, including those lists which, you know,
5 your client's in possession of. It's probably good just to
6 have a talk with her just so that nothing happens between now
7 and next Tuesday in terms of more use, if there is any use of
8 it. It would just be best to kind of sit on things and keep us
9 in status quo.

10 MR. HECHT: Sure, Your Honor. I'll have that
11 conversation with my client.

12 THE COURT: That would be great.

13 Anything else before I let you all go?

14 MS. SCHWARTZ: Not from the plaintiff, Your Honor.

15 THE COURT: Okay. Listen, thank you all for your hard
16 work. My Cole, Scott, Kissane team, you don't have to be back
17 on the 7th. I'm not ordering you to be back. It's completely
18 up to you.

19 MR. MAYA: Thank you, Your Honor.

20 THE COURT: I just didn't want you to feel like,
21 uh-oh, we gotta be there and sit there. It's completely up to
22 what you and your client want.

23 MS. SCHWARTZ: Your Honor, RNN's response -- I'm
24 sorry, reply brief in support of its motion for preliminary
25 injunction responding to Ms. Shafer's response is due today.

1 We filed yesterday a motion for extension of time because we
2 had the hearing today. It was opposed. And so I guess I need
3 to know if it's due in two hours.

4 THE COURT: How much time do you need? I didn't look
5 at it. I'm sorry.

6 MS. SCHWARTZ: We asked for an extension until Monday.

7 MR. SCHULTZ: Tuesday, but Monday is fine.

8 THE COURT: I couldn't hear that.

9 MR. SCHULTZ: We asked for until Tuesday, but we can
10 do it Monday just before the hearing.

11 THE COURT: Will that work for you? It will come in
12 Monday, which is ahead of the hearing.

13 MR. HECHT: Your Honor, I just wanted to point out --
14 and we actually -- I think she mentioned it -- in all credit to
15 Ms. Schwartz, she mentioned it in her motion. Our primary
16 objection is that we wanted to be fully briefed before the
17 evidentiary hearing so we know what legal issues we have to
18 address. And I think this is especially true here because they
19 filed initially their motion under Florida law. We responded
20 it's Utah law applies. So there's a chance here that they may
21 come back with a whole bunch of new case law about Utah law
22 that we haven't seen before, and we may need an opportunity to
23 address it. That was the primary reason why we objected.

24 And we do think that it would be right -- at least the
25 Court should give us an opportunity to address it if she does

1 file a reply before the Court makes a ruling. So if the Court
2 doesn't make a ruling on the evidentiary hearing, then at least
3 give us some time maybe after that to review it and maybe if we
4 have to file a short reply or the Court orders some further
5 briefing, then we can address it.

6 THE COURT: Okay. So here's what I think. If you
7 could give me your submission by close of business Monday.
8 We'll come back Tuesday for the hearing, finish the hearing.
9 Once the evidentiary part of the hearing is complete, I'm just
10 going to want you all, if you wish, to give me a little bit of
11 closing, kind of like how you gave me an opening, and then I
12 always ask for proposed findings of fact and conclusions of law
13 in a written submission.

14 Being that that's the 7th, I would probably ask to
15 have those get to me by the 17th, which is the Friday before
16 Thanksgiving week. That way you don't have to worry about it,
17 either side, during Thanksgiving week, and it will give you ten
18 days.

19 My other thought would be, since we have this time, if
20 you're inclined to want transcripts from today and from Tuesday
21 of next week for your submissions for the 17th, let Karl know
22 today so he can at least get this part done, and that would be
23 great. But that would be the plan. And so that way you'll
24 have time to incorporate whatever you have to in whatever you
25 give me by the 17th. And then typically what I get from the

1 17th, I just have you both file it at the same time. You know,
2 close of business on the 17th.

3 MS. SCHWARTZ: Okay.

4 THE COURT: Okay?

5 MR. HECHT: Okay.

6 THE COURT: That will be the plan.

7 MR. HECHT: I would just ask -- because I just know my
8 calendar. On the 17th I'm actually not going to be here. If
9 the Court puts a date -- if you can put it on the 16th maybe,
10 because I'm leaving on vacation on the 17th.

11 THE COURT: Okay. That's better for you. A day
12 earlier. The 16th then we'll say. Close of business on the
13 16th. But you don't have to come here to file it. Just file
14 it in CM/ECF.

15 MR. HECHT: I will be on a cruise. I don't know if my
16 Internet is going to work.

17 THE COURT: I got it. That's true.

18 So what it is, he doesn't want to file it on the 16th
19 and you get to see it before you file it on the 17th.

20 MS. SCHWARTZ: I understand.

21 THE COURT: So close of business on the 16th.

22 MS. SCHWARTZ: Okay.

23 THE COURT: Fair enough. Thank you all for your hard
24 work. I really appreciate it. Look forward to seeing you next
25 week. Be safe tonight, especially if you're out in the car

1 with a lot of little kids out on Halloween. And don't forget
2 that Sunday is daylight savings. So don't get here an hour
3 earlier, an hour late on the 7th.

4 Okay. Take care, everyone.

5 MR. HECHT: Thank you so much, Your Honor.

6 MS. SCHWARTZ: Thank you, Your Honor.

7 (Recess at 3:26 p.m., until 10:00 a.m., November 7, 2023.)
8
9

10 C E R T I F I C A T E

11 I, Karl Shires, Registered Merit Reporter and Federal
12 Certified Realtime Reporter, certify that the foregoing is a
13 correct transcript from the record of proceedings in the
14 above-entitled matter.

15 Dated this 4th day of November, 2023.

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18 Karl Shires, RMR FCRR
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DE 63

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-CIV-61703-SINGHAL

CHG MEDICAL STAFFING, INC, d/b/a)
RNNETWORK, a Delaware Corporation,)

Plaintiff,)

-v-)

RACHEL SHAFER, an individual,)
LISLEY ROSSI, an individual, AHS)
STAFFING, LLC, an Oklahoma Limited)
Liability Company,)

Defendants.)

Fort Lauderdale, Florida
November 7, 2023
10:20 a.m.

TRANSCRIPT OF PRELIMINARY INJUNCTION PROCEEDINGS - DAY 2

BEFORE THE HONORABLE RAAG SINGHAL

U.S. DISTRICT JUDGE

Appearances:

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STENOGRAPHICALLY RECORDED COMPUTER-AIDED TRANSCRIPT

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1 (Call to Order of the Court.)

2 THE COURT: Okay. We are going to continue on with
3 CHG Medical Staffing, Incorporated versus Rachel Shafer, et al.
4 It's Case 23-CV-61703.

5 Let me get appearances again, just for today, and then
6 we'll keep going.

7 MS. SCHWARTZ: Good morning, Your Honor. Jennifer
8 Schwartz and Adam Schultz from the law firm of Jackson Lewis on
9 behalf the plaintiff CHG. And with us is our corporate
10 representative Eleonore Ruffy.

11 THE COURT: Nice to see you. I hope Las Vegas treated
12 you well.

13 How about for the defense?

14 MR. HECHT: Good morning, Your Honor. Sam Hecht here
15 on behalf of Rachel Shafer.

16 THE COURT: Nice to see you both as well. Your table
17 seems a lot emptier today, but I understand.

18 So normally I start by asking if there's any issues
19 you want to discuss before we get into the witnesses again.
20 I'm assuming there are based on some of the late filings that I
21 got yesterday.

22 In essence, Mr. Hecht, you had made an effort to
23 subpoena the witness that was mentioned in some testimony, and
24 then it looks like AHS filed a motion for protective order for
25 a number of different reasons. Do you want to talk about that

1 here at the outset or do you want to get into continuation of
2 the witnesses?

3 MR. HECHT: Yes, Your Honor, we just wanted to check
4 how the Court wishes to address that because we do believe that
5 since a big chunk of plaintiff's case rests on that witness and
6 we did subpoena the witness to come and testify. He wasn't
7 identified before. The first time we got notice of that
8 witness was during the previous hearing. So he said he is
9 available probably tomorrow or maybe available another date.
10 His unavailability seems to be broken in two. He says he is
11 not available today because he has some kind of a doctor's
12 appointment, but then he's also claiming that he lives far away
13 and he wants to see if he can perhaps appear remotely. So we
14 just wanted to see if the court -- what the Court prefers to
15 do.

16 Alternatively, he also submitted an affidavit, and his
17 affidavit pretty much outlines that he does not recall anything
18 about that phone call and he doesn't have any access -- he
19 doesn't have any information about Ms. Shafer's whereabouts,
20 which completely contradicts the testimony that the plaintiff
21 has introduced to rely on. So we do think it's a critical
22 witness for the disposition of this issue, and we want to know
23 how the Court would prefer to address that.

24 THE COURT: Sure.

25 MS. SCHWARTZ: May I respond, Your Honor?

1 THE COURT: Sure. Yes, before I say anything, let me
2 hear from plaintiff's side.

3 MS. SCHWARTZ: So as an initial matter, the first time
4 I learned that Mr. Hecht had subpoenaed this individual to
5 appear to testify in this case was last night when I saw AHS's
6 motion to quash. I was never notified that this individual was
7 going to be served with a subpoena to be here. I was never
8 given an opportunity to assert any objections or to have any
9 discussion about it.

10 That being said, I do not agree that the testimony
11 about him comprises a huge chunk of our case. In fact, I think
12 it's a small, little part of our case. And given his
13 declaration if he is available to testify, I will have no
14 objection to that. I do object to continuing this hearing
15 beyond one more day, today, for that purpose because I don't
16 believe his testimony is really all that critical given the
17 significant amount of evidence that we have to support the
18 claim apart from that call.

19 Second --

20 THE COURT: Let me ask you this. Oh, okay. Go ahead.
21 I didn't know you had a second.

22 MS. SCHWARTZ: It also came to my attention yesterday
23 that Mr. Hecht and Ms. Shafer have been email my client's
24 directors and managers threatening them that if they don't
25 provide information that they want, that they will be

1 receiving -- they will be dragged into this litigation.

2 So I don't know what additional surprise witnesses may
3 be on Mr. Hecht's unannounced lists for today. I think this
4 conduct is inappropriate and needs to stop. And I would object
5 to him calling any of the witnesses that they were threatening
6 to drag into the lawsuit and that -- he's planning to do that.
7 All of this has come as a last minute surprise to me.

8 THE COURT: Okay.

9 MR. HECHT: Judge, may I respond briefly?

10 THE COURT: To that last part?

11 MR. HECHT: To both parts.

12 THE COURT: Okay.

13 MR. HECHT: Number one, Your Honor, it's inaccurate.
14 On Wednesday, November 1, a day right after this -- the last
15 hearing, I sent an email copying opposing counsel with the
16 subpoena. So she became aware that we would like to subpoena
17 Mr. Hester the very next day after the hearing. And, Your
18 Honor, I have a copy of this email here with the attached
19 subpoenas that we sent to AHS. We asked AHS if they would
20 accept service. And Ms. Shafer -- I mean, opposing counsel,
21 Ms. Schwartz, was copied on that email. So she had notice
22 about that.

23 As far as contacting the other party, Your Honor,
24 counsel -- I have not contacted anybody there directly. My
25 client wanted to verify some information from her old bosses.

1 She showed me the email that she sent simply asking to confirm
2 where the specific people worked at RNN or didn't work at RNN.
3 And again, these are all of the new people, the new nurses or
4 persons that were identified for the first time in the last
5 hearing. And she just -- she didn't threaten anybody. I saw
6 those emails, and they're not threatening emails. They're just
7 asking simply for information. And my client has a right to
8 defend herself.

9 THE COURT: Okay. So a couple things, just working
10 backwards. As far as your client contacting CHG Medical or any
11 of the employees there, I mean, just not a good course of
12 practice. You've got to talk to her about that. I do
13 understand that she wants to do the best she can with regard to
14 the evidence, but, you know, even how this whole case was set
15 up before me, what I was told is, look, you've got this case,
16 Judge, and there's also going to be a separate ADA case and
17 there's an EEOC complaint. And so I just don't know that the
18 clients should be talking.

19 I mean, certainly, Mr. Hecht, you can have whatever
20 conversations you think are appropriate with opposing counsel.
21 And it's probably best that I say it that way because
22 sometimes -- like I was a lawyer before I was a judge.
23 Sometimes clients need to hear it from the judge, rather than
24 their own lawyer. It's just truly a better course of practice
25 that you lawyers handle things. So let's kind of put an end to

1 that contact, whether it's nefarious or not. Let's just put an
2 end to that, and you all going forward just handle that.

3 Second thing is with regard to just fair notice, you
4 do you have to file a witness list. You know, you do have to
5 file an amended witness list. And so that would be the
6 preferable way to do things in terms of how we have our dockets
7 set up. That having been said, the first thing my law clerk
8 told me when we walked out of court after the last hearing was
9 he's going to subpoena Marc Hester. So I'm not looking at it
10 as a huge surprise. But from a notice standpoint, we just
11 gotta do it that way.

12 Let me inquire about your position, though, with
13 regard to the affidavit. Is it your position that I can
14 consider that affidavit?

15 MS. SCHWARTZ: Yes, I actually have rebuttal evidence
16 that refutes the affidavit. So if Your Honor would like to
17 accept that affidavit, I will just present my evidence and
18 Mr. Hester need not appear, unless he's available today.

19 THE COURT: Sure. So there are several independent
20 reasons why Mr. Hester can't be compelled to appear today.
21 Main one being where he lives. I could set up something over
22 Zoom. It appears that he has several important doctors'
23 appointments today. It sounds like his personal health
24 condition is awful. And, you know, that was all laid out in
25 the motion.

1 I think really, though, what it comes down to is this.
2 CHG has to prove its case, and the quality of the testimony is
3 always going to be in question.

4 From Ms. Shafer's perspective, the testimony that the
5 individual gave regarding the email she received from
6 Mr. Hester, your argument, Mr. Hecht, is that that's false.
7 But there's two levels to that. Was the email sent by
8 Mr. Hester? We don't know. Two, was the email sent by someone
9 else using Mr. Hester's name? We don't know. Three, was the
10 email never sent and you're saying the witness made it all up?
11 I've got to hear all of that in terms of what's offered in the
12 case.

13 The best way that I can look at it really is this. If
14 this were a criminal case and you were the prosecution and the
15 police based their investigation on an anonymous tipster who
16 then came forward and said I never sent these emails, I don't
17 know what's going on, then, Mr. Hecht, you've got a great
18 argument. But in a civil case, even if all of that testimony
19 is false but CHG can establish what they have to establish
20 independent of that testimony, you still have an issue. I'm
21 not saying they've established it. I'm not saying they
22 haven't. But I view it completely differently for that reason.

23 And in terms of going forward. So Mr. Hester's email
24 essentially listed nine people that Ms. Briles testified were
25 people that Ms. Shafer stole. I won't base a decision based on

1 Mr. Hester's email alone. I mean, I've got to hear everything.
2 And so you can rest assured that it's got to be more than that.
3 But keep in mind we do have separate emails from, for example,
4 an individual saying, hey, I'm going to go with my old
5 recruiter. So I think you gotta really focus, both sides, on
6 what I have independently, and we'll see if it meets the four
7 elements.

8 I'm happy to consider that affidavit. I'm happy to
9 hear your argument that, hey, Hester never sent this email.
10 I'm happy to hear whatever argument opposing counsel makes as
11 well. I don't know that you need to call a witness, even by
12 Zoom, if they're just going to testify consistent with that
13 affidavit. I'll accept what that affidavit says.

14 So I think that's my position going forward. I think
15 that you've got out what you need to get out. And I'll
16 certainly hear rebuttal as well, and we'll go from there.

17 MR. HECHT: Your Honor, I just want to correct. I
18 think the Court mentioned multiple times referring to an email
19 sent by somebody alleging to be Mr. Hester. I don't think
20 that's what they presented, Your Honor. They presented an
21 email sent internally about a conversation that somebody had
22 with Mr. Hester. There was only an allegation about a phone
23 call, not about an email.

24 THE COURT: You're exactly right. You're exactly
25 right. So I misspoke there. But let's say it was John Doe

1 says, hey, this is Marc Hester. That's what I meant. I don't
2 know what the argument is that's going to be going forward.

3 So what I'm saying is there's a number of
4 possibilities. It could be Hester, and he's really ill, and he
5 doesn't remember. It could be John Doe posing as Hester. It
6 could be neither of the two and completely made up. My point
7 is that we go forward no matter which one of those three it is
8 and focus on the quantum of evidence that's going to come in.

9 Anything else on that issue before we keep going?

10 MS. SCHWARTZ: I do have one thing, Your Honor.

11 THE COURT: Sure.

12 MS. SCHWARTZ: I was wondering if Mr. Hecht or the
13 other counsel here for AHS has Mr. Hester's phone number and
14 could tell me what that number is. Because I have evidence
15 that I would like the Court to consider along with that
16 affidavit if the number is consistent with what's appearing on
17 this document.

18 THE COURT: Well, I mean, you all can talk about that.
19 But, I mean, this individual was an employee of CHG, so I'm
20 sure CHG has his number.

21 MS. SCHWARTZ: He was an employee of AHS.

22 THE COURT: Oh, of AHS. Understood. Understood.

23 So, I mean, I'm sure we can go ahead, but I think
24 we're all missing the point. If, let's say, they have a number
25 and, let's say, John Doe called from his number, let's say John

1 Doe cloned his number. I mean, either way I think we go
2 forward and we have a witness who's saying he has no memory --

3 MS. SCHWARTZ: Okay.

4 THE COURT: -- you know? Okay.

5 All right. Then what's the preference? To put the
6 witness back on whose direct is completed and go to cross or --
7 and I think that that's where we left off. And then after that
8 witness we would go to Ms. Shafer, and that seemed like it
9 would be the bulk of the witnesses, or if there's a different
10 plan let me know.

11 MS. SCHWARTZ: I think that's fine, Your Honor.

12 THE COURT: Okay. All right. Mr. Hecht, anything
13 else before we keep going?

14 MR. HECHT: No, I think that's it.

15 THE COURT: Okay. All right then. Ready? Come on
16 up.

17 MR. HECHT: Your Honor, just as an administrative
18 matter, I want to know if the Court still has all the exhibits
19 that were introduced in the primary testimony, and does the
20 witness also have access to all of the exhibits introduced to
21 her?

22 THE COURT: I have the exhibits. I think she came up
23 empty-handed, but there's a stack in front of her. If she
24 doesn't have access, someone can give her access.

25 MR. HECHT: Okay.

1 THE COURT: Remember when you left, I said you remain
2 under oath, but we're going to swear you in anyway.

3 THE COURTROOM DEPUTY: Raise your right hand.

4 ELEANOR RUFFY, PLAINTIFF'S WITNESS, SWORN

5 THE COURTROOM DEPUTY: You may be seated. State your
6 name and spell your last name for the record, please.

7 THE WITNESS: Eleanor Ruffy, R-U-F-F-Y.

8 THE COURT: And then, Mr. Hecht, I think the ball is
9 in your court at this time.

10 CROSS-EXAMINATION

11 BY MR. HECHT:

12 Q. Good morning, Ms. Ruffy. I would like to go over some of
13 the elements of the testimony you've given here last week.
14 Let's start with the responsibilities of Ms. Shafer.

15 You described certain responsibilities of Ms. Shafer,
16 which includes develop relationships. Do you recall giving
17 this testimony?

18 A. I do.

19 Q. Okay. Can you explain to me what does it mean "develop
20 relationships"?

21 A. Developing relationships to us would mean when a nurse
22 expresses interest in a particular job that we're posting
23 somewhere. That lead would be routed to Ms. Shafer, and she
24 would call the nurse, get to know the nurse, find out what the
25 nurse's interests are, develop a business relationship with

1 that provider, that nurse, and then help that nurse get placed
2 within a facility.

3 Q. Was it Ms. Shafer's responsibility also to find nurses in
4 the first place?

5 A. Typically she would not find nurses outside of our system,
6 no. She would typically either respond to leads we received or
7 sourced through our database for nurses who might still be
8 looking.

9 Q. Okay. And then after she develops a relationship with that
10 nurse, what would be -- what else would she be involved in as
11 far as a job position?

12 A. She would be helping the -- be a resource for the nurse as
13 she goes through the placement process. So sending the resume
14 over to the job, helping that happen, help with the
15 credentialing process. Not actually credential the nurse, but
16 maybe run interference if there's an issue. If there's an
17 issue with payroll down the line, help with interference. Keep
18 in touch with the nurse weekly throughout the assignment. And
19 then towards the end of the assignment, help place that nurse
20 hopefully to another assignment with RNN.

21 Q. Okay. Now, which part -- is that all the responsibilities
22 she had or did she have other responsibilities as well?

23 A. That's the bulk of the responsibilities she had.

24 Q. Okay. Now, which part of her responsibility required the
25 most skill?

1 A. Uhm, the -- well, there would be the -- just generally
2 learning our nursing staffing in general. So the specialties
3 themselves. We work with any kind of nurse from home health to
4 ICU to ER. So being able to utilize the right language with
5 the nurse that calls in. So learning all of the specialties to
6 be able to qualify the nurse is a big skill set needed.

7 There would also be the payment process. So there's a
8 job that posts at a certain rate, the nurse wants a certain pay
9 rate, and she could negotiate the pay package. There's a lot
10 of details involved there with regards to knowing state laws
11 for payment, there's overtime and all those things. So she
12 needs to have a fairly complex knowledge of the pay placement
13 process.

14 Besides that, there are other professionals who do the
15 credentialing piece. So she doesn't need to know that, but she
16 does help the provider through if there are issues. So having
17 some knowledge of all of the credentialing needed to send a
18 nurse on assignment.

19 Q. Okay. You mentioned that when it comes to payment, she has
20 to have specialized knowledge in certain areas, and you said it
21 has to do with payment loss and overtime pay?

22 A. Uh-huh.

23 Q. Okay. Was there any other specialized knowledge she had to
24 know that had to do with payment?

25 A. Not that I can think of. Are you looking for something

1 specific?

2 Q. No, I'm asking you. Like what specific skills -- what are
3 the skills she's required to do to handle payment, and you
4 mentioned two specific skills -- skill sets, which has to do
5 the loss and overtime. I'm asking if there are any others that
6 you can think of.

7 A. Not that I can think of.

8 Q. Okay. Now, you said that there is a certain skill set she
9 has to have when she initially talks with a nurse, and
10 basically you said something about understanding what types of
11 positions there are, correct?

12 A. Uh-huh.

13 Q. Is that -- would you itemize that as a special skill set
14 that she needs to have?

15 A. Yeah, it would be specialized training. Not necessarily a
16 skill set, like a talent, but it's specialized training that we
17 provide our recruiters is how to read a job description,
18 whether it's an OR or an ER or a home health nurse. We train
19 all of our recruiters to be able to read a job description.

20 Q. Okay.

21 A. But it's not a skill set per se. It's a trained --
22 something we teach them --

23 Q. Okay.

24 A. -- to do.

25 Q. So the skill set is essentially to be able to differentiate

1 between different types of nurses?

2 A. Yes.

3 Q. Okay. And all these letters that you mentioned, these are
4 different types of nurses, right? For example, OR. Can you
5 tell me what "OR" means?

6 A. Oh, yes. "OR" is operating room nurse, where "ER" would be
7 an emergency room nurse. Home health would be a home health
8 nurse that comes to your home. They're all different types of
9 nurses with different trainings, backgrounds, and
10 certifications.

11 Q. Okay. And are these distinctions between different nurses,
12 are they well known within the industry or is it something
13 that's unique to RNN?

14 A. They would be well known within the nursing industry or
15 within the nurse staffing industry.

16 Q. Okay. So, for example, it's well known that when you have
17 a job description that says OR, it means operating room nurse,
18 right?

19 A. Well known within our industry? Yes.

20 Q. Right. Okay. But I mean, it's not unique to RNN. It's
21 not like RNN came up with the term OR or a distinction between
22 those different nurses, correct?

23 A. Correct. It's an industry nomenclature for an operating
24 room nurse, yes, OR nurse.

25 Q. So part of her skill set is to understand the different

1 terms of different nurses?

2 A. Yes.

3 Q. Okay. Are there any other skill sets that you can think of
4 that she needs to have when it comes to recruiting a nurse?

5 A. Well, there's the basic skill sets of working with -- as an
6 agency recruiter working with people looking for work. So
7 Rachel didn't have a sales background, so we would have taught
8 her basic sales skills; questioning, handling objections.
9 Those traditional sales skills would also be something that she
10 learned at RNnetwork.

11 Q. Okay. Now, last time you testified about a training
12 process. I believe you mentioned that there are like three
13 different phases of training. You said the first phase is --
14 the first eight weeks there's a specialized training.

15 Do you have a specific name that you refer to when you
16 talk about the first eight weeks of training?

17 A. Uhm, the new hires go, what we call, into core training.
18 That's the internal term we use.

19 Q. So core training would consist of the first eight weeks of
20 training?

21 A. Yes.

22 Q. And when you say the first eight weeks, would that be the
23 first eight weeks after they're initially hired?

24 A. Correct.

25 Q. Okay. And how would you describe the core training?

1 A. So the core training of the new hires are in on their own
2 team with a specific trainer. So they're not in the sales
3 process yet. And over the course of eight weeks, they're
4 taught everything from sales skills to the specialty skills, I
5 mentioned, to how to build a package, a compensation package
6 for the nurses, and then what happens down the line.

7 And then at around four weeks they'll start receiving
8 one or two leads that they can start working with that with
9 providers under the supervision of a trainer.

10 Q. Now, we talked before about a specific skill set involved
11 in developing relationships with new nurses. Would it be fair
12 to say that the core training, the first eight weeks, is when a
13 new employee develops that skill set to develop relationships
14 with nurses?

15 A. Uhm, no, I wouldn't say so. Most of the eight weeks is
16 technical training. We obviously do train how to connect with
17 nurses and develop those relationships, but being a skilled
18 recruiter takes a long time to really get good at it. So this
19 is why we have continuous training throughout. Even a seasoned
20 recruiter gets ongoing training because they need to continue
21 to hone their skill sets.

22 Q. Now, can you identify a specific skill set that's not
23 taught in the core training the first eight weeks that the
24 recruiter would need in order to develop relationships?

25 A. Uhm, I would say no. The core training is for brand-new.

1 As I mentioned when I testified last week, we typically don't
2 hire seasoned recruiters. So the core training is to teach
3 brand-new folks who have never ever been in the industry. But
4 then we repeat much of the training throughout the years of
5 recruiters to re-hone their skills, update the training, and
6 refresh. So I can't think of anything we teach in core that we
7 wouldn't teach ongoing.

8 Q. Okay. Now, you mentioned also that when it comes to
9 training, there's a secondary period of training after the core
10 training, and I believe you said something about eight to nine
11 months; is that correct?

12 A. Right, from week eight. At week eight they graduate and
13 move onto a sales team with a sales leader. And during that
14 time, the sales leader takes over the leadership and the
15 oversight of that employee. But the trainers have -- spend
16 extra time with them each week to continue with some training.
17 And that would be from week eight to month nine.

18 Q. So would it be fair to say that would be like an additional
19 like seven months of training?

20 A. Yes.

21 Q. And can you describe what skill sets new employees are
22 being trained within that secondary period, from week eight to
23 month nine?

24 A. It's reinforcement training and higher level, if you will.
25 If you're -- for example, we teach all the nurse specialties in

1 the first eight weeks. It takes a long time to absorb all of
2 the details. So we'll do another couple of series of trainings
3 to teach at a little bit higher level so that they get fully
4 proficient in each of the specialties.

5 For example, similar with the pay packages, we -- it's
6 sort of like pay package 2.0, if you will.

7 Q. And you used the word they become fully proficient after
8 the nine-month training, correct?

9 A. I wouldn't say that. That's why we have ongoing training
10 each week and each month and require even our seniors to
11 attend. Our industry does change over time. And requirements
12 change, laws change, so we have continuous training on, for
13 example, pay packages. Laws change over years. We have to
14 readjustment, and we have ongoing training. So I would not say
15 after nine months anybody's fully proficient, no.

16 Q. Okay. Now, do you have a certain internal term that you
17 use for that secondary training between week eight and month
18 nine?

19 A. Yes, we call it core to floor.

20 Q. Core to floor?

21 A. So out of the core training group into the sales floor.

22 Q. And what does "floor" mean in that context?

23 A. Floor would be that you -- a recruiter is now on a
24 recruitment team with a sales leader and is receiving -- is on
25 the job full time and no longer in training.

1 Q. Okay. So the "floor" means that they transition from
2 training into actually working on the floor?

3 A. Right.

4 Q. Okay. Now, you also mentioned that there's ongoing
5 training, correct? And how would you describe the ongoing
6 training? Does it happen once a week or once a month or how
7 frequent does it happen?

8 A. Well, it's evolved over time. I mean, obviously, we've
9 been doing this for years and things change over time. During
10 the COVID period, it was different than pre-COVID. It was a
11 little different than now. So it's a little hard to answer
12 your question accurately.

13 Our attempt is a minimum once-a-month training. There
14 have been periods of time where we've done weekly trainings,
15 sometimes twice a month. We'll have to do specialized training
16 if there's, for example, a new situation. So it really does
17 vary. We don't have a set program once a recruiter moves out
18 of core to floor.

19 Q. Okay. Now, how is that training performed? Is there a
20 specific person that comes in and does the training or --
21 what's the format of those trainings?

22 A. Well, that's evolved as well. Prior to COVID, they were
23 live training sessions in the office, or at times the leaders
24 are trained and the leaders train at the team level or at the
25 individual level one-on-one. So it could depend on the

1 magnitude of the training. Nowadays we do a lot of it via Zoom
2 or recorded self-service trainings. And we do also offer live.
3 So it's varied over time.

4 Q. Okay. How long have you been with AHS?

5 A. I work at CHG.

6 Q. I mean CHG. I'm sorry.

7 A. I have been with CHG for 15 years and with RNnetwork for
8 six years.

9 Q. Okay. So RNnetwork is the office that we are talking about
10 that's involved in this particular case, and for RNnetwork
11 you've been only six years?

12 A. Yes, I joined in 2017.

13 Q. Okay. And can you describe the specific skill sets that
14 are being trained during those weekly or monthly continuous
15 training?

16 A. Again, it varies depending on what we feel the recruitment
17 teams most need. Sometimes it's technical training to improve
18 on processes or how to use our software. Sometimes it's a
19 training on how to speak with the nurse and help them through,
20 for example, the health consequences of COVID, how to build
21 strong earn relationships with the nurses given the ups and
22 downs. It really has varied. Sometimes it's training on how
23 to best build a pay package to be competitive in the
24 marketplace. Again, things changed a lot over the years, so
25 there was a multitude of trainings in all sorts of aspects for

1 recruiters.

2 Q. Are these trainings being recorded somewhere?

3 A. Today they are, yes. I don't know if you're asking back in
4 the day. But, yes, they are recorded.

5 Q. And what format is it recorded?

6 A. We typically do Zoom training. We do a hybrid training,
7 including zoom, and record them and then make them available
8 after for anybody who missed the training.

9 Q. Okay. And are there also materials that are being
10 presented to the trainees for all of these trainings?

11 A. Most of the time there's material. Not always, but most of
12 the time, yes.

13 Q. Okay. Now, you described all of these three different
14 levels of trainings, right? The core training, the core to
15 floor, and the continuous training.

16 Do you have a specific name that you use for the
17 continuous training, like --

18 A. No, just ongoing training.

19 Q. Okay. Have you participated in any of these trainings
20 personally?

21 A. Uhm, yeah, I have. I don't go to all of them, but I do
22 participate in some of them, yes.

23 Q. Okay.

24 A. Not all of them, no.

25 Q. And when you say you participate in all of them, have you

1 participated in the core training?

2 A. I participate in some of them. Core I do not, no. When I
3 first started in '17, I went through core as a trainee to get a
4 feel for it. And I've gone into some of the core classes since
5 just to audit and see how they're doing. But, no, I don't
6 attend core now.

7 Q. How about the core to floor?

8 A. No. Similar. I went -- I attended them early on when I
9 joined in '17 and not since then.

10 Q. How do you know about the training process of RNN?

11 A. How do I know about it?

12 Q. Yes.

13 A. I oversee the training department. I have a training team
14 and a leader and a senior leader, and they report up to me.

15 Q. Okay. So the training team reports to you and that's how
16 you know about it. And you mentioned before you started to
17 work for RNN in 2017.

18 Do you know anything that RNN -- how RNN operated with
19 its training prior to 2017?

20 A. I do know core was in place when I started, but I don't
21 know how far -- how long it had been there, if that's what
22 you're asking. But, no, prior to '17 I don't have a clear
23 knowledge of what they did.

24 Q. So do you have any knowledge about RNN's core to floor
25 training prior to 2017?

1 A. That was added during my time, so it did not exist before
2 '17.

3 Q. Okay. Do you know anything about the ongoing weekly or
4 monthly training that happens at RNN prior to 2017?

5 A. No.

6 Q. Okay. Do you know if Ms. Shafer received core training?

7 A. I don't.

8 Q. Do you know --

9 A. I don't know if she did or not.

10 Q. Okay. Do you know if Ms. Shafer received core to floor
11 training?

12 A. I do not know if she received that.

13 Q. Do you know if Ms. Shafer received ongoing training?

14 A. That I do know. She received ongoing training. She had an
15 opportunity to attend all of our ongoing trainings during at
16 least my time there.

17 Q. Now, when you say she had an opportunity to attend, what do
18 you mean by that, she had an opportunity to attend training?

19 A. All of our trainings are either required or best practice.
20 For our seniors many times we would encourage them, not require
21 them. But we made them available to her at all times. And in
22 some cases we required them.

23 Q. Okay. Do you have any personal knowledge whether
24 Ms. Shafer actually attended any of these trainings?

25 A. I do not.

1 Q. Okay. But all you know is that training was made available
2 to her?

3 A. Correct.

4 Q. Now, you've also testified here last time about the nurses
5 lists that RNN has, correct?

6 A. The -- you mean -- which list are you referring to?

7 Q. The lists that -- like a database of nurse lists that
8 recruiters have access to and they can go and use that for
9 recruiting nurses.

10 A. Our Bullhorn database, the actual ATS, or the working and
11 awaiting list?

12 Q. I'm not talking withing about a specific report. I'm
13 talking in general.

14 A. Okay.

15 Q. You've testified about RNN has a big list of nurses,
16 correct?

17 A. Yes, a database of nurses.

18 Q. I believe you said -- correct me if I'm wrong. Did you say
19 they have about 400,000 nurses in that database?

20 A. Yes.

21 Q. Okay. In your testimony you described how RNN obtained
22 those lists, correct?

23 A. I did.

24 Q. And you mentioned something by the initials CB. Do you
25 recall that?

1 A. CB?

2 Q. I believe -- I believe so. I think you said we use CB, we
3 use Indeed.

4 A. CareerBuilder.

5 Q. CareerBuilder. Okay. So "CB" stands for CareerBuilder?

6 A. As an example, yes.

7 Q. So RNN uses CareerBuilder to get lists of nurses?

8 A. No, we contract with CareerBuilder to post our jobs, and
9 then the nurses apply to our jobs through CareerBuilder and we
10 receive the lead.

11 Q. Okay. And the same thing with Indeed?

12 A. Correct. We contract with about 10 or 15 different
13 companies like that.

14 Q. Okay. And can you describe the contracts? Like what type
15 of contract is that? What do they do for you and what do you
16 do for them?

17 A. I'm not intimately involved in that. That's our marketing
18 department. So I'm not sure I'm qualified to answer. I know
19 the marketing department does contract, for example, with
20 Indeed, and we pay them to allow us to post our jobs onto their
21 site, but that's as much as I can tell you.

22 Q. Okay. Now, the extent of your knowledge about how RNN
23 established those databases, do you have any personal knowledge
24 on that?

25 A. I'm sorry. I don't understand the question.

1 Q. Do you have any personal knowledge about the process RNN
2 goes through to establish its database of nurses?

3 A. Besides the front desk enters all the leads and that's how
4 the provider gets added? I do have personal knowledge of that.
5 I've seen that work being done, and I've helped establish the
6 processes.

7 Q. Okay. So you have personal knowledge about people actually
8 putting in data in the system?

9 A. Uh-huh.

10 Q. Do you have personal knowledge about where this data is
11 coming from?

12 A. Well, I don't know what you mean by "personal knowledge."
13 Like, have I seen it with my own eyes? I mean, I see the inbox
14 where the leads come in and it says CareerBuilder at the top,
15 and then I see the front desk take it, decide which recruiter
16 it goes to, keys it into Bullhorn. I've witnessed all of that.
17 Is that personal knowledge? I guess I don't understand
18 "personal knowledge."

19 Q. So you described now a source that you know certain emails
20 that you've seen coming in from CareerBuilder and people
21 putting in that information into the system. Do you have any
22 other source of information that you can use to tell you where
23 these nurses are coming from?

24 A. Where else besides what I described? Is that what you
25 mean?

1 Q. Yes.

2 A. Uhm, yeah, I mean, there are recruiters that do some
3 recruitment through their own sourcing and will put in leads
4 from -- that they found on their own, if that's what you're
5 getting at. That does happen from time to time in our business
6 as well.

7 Q. Okay.

8 A. I would say 90 percent of it is sourced through how I
9 described it.

10 Q. And what do you mean by how you described it 90 percent?

11 A. The leads are coming in through different -- from our job
12 postings.

13 Q. Okay. And how do you know that this is 90 percent?

14 A. Uhm, because I've review our leads every week and can see
15 where they come from. And we have a report each week of where
16 every new -- I can pull a report if you would like to see it.
17 I'm happy to show it to you. But I do every six months audit
18 where we get our leads and how they're placed, and I can tell
19 you that 90 percent of them come from one of those sources.

20 Q. Now, you've identified two sources. You said CareerBuilder
21 and Indeed, and then you said other third-party sources. Can
22 you describe what you mean by "other third-party sources"?

23 A. Yes. So there are other companies. For example,
24 travelnurse.org. We also contract with them. In that case, a
25 nurse who's interested in travel nursing but didn't actually

1 apply to our job but will enter in travelnurse.org, I'm
2 interested in traveling nursing, I would like to travel in May,
3 I'm an ER nurse, that travel nurse will match us, it's called
4 third-party matching, and will send us the leads. So they
5 didn't actually apply to our job, but they have expressed
6 immediate interest in travel nursing. We pay that company to
7 give us that name. And similar to how I described before, it
8 comes into our inbox, our front desk receives it, and it's
9 routed to a recruiter.

10 Q. Okay. Now, you mentioned before that 90 percent comes
11 through similar -- third parties. Is that included in the
12 90 percent?

13 A. Yes.

14 Q. Okay. Do you know what percentage of nurses you receive
15 through these websites that nurses post their resumes on?

16 A. I'd have to look it up. It's a healthy half of the
17 90 percent. So maybe in the 40s or something. I'm not exactly
18 sure.

19 Q. So is it fair to say that a big chunk of the nurses that
20 you receive are from nurses that have posted their resumes on
21 this particular website?

22 A. Yes.

23 Q. Okay. And what was the name of that website again?

24 A. Travelnurse.org.

25 Q. Is it just one website or there are multiple websites like

1 travelnurse.org that nurses can post their resumes?

2 A. That's the largest one. There are a few others. Again,
3 I'm not in marketing, so I'm not intimately aware of every
4 single contract we have. But I know -- there's a --
5 betternurse.org would be a secondary newer one. Those are the
6 two primary ones I know of. I could be missing some, though.
7 It's not my profession.

8 Q. Is it fair to say that a healthy chunk of nurses that RNN
9 receives are from these types of websites where nurses post
10 their resumes, correct?

11 A. Yes.

12 Q. Okay.

13 A. And we pay to receive that information from them.

14 Q. Okay.

15 A. Yes.

16 Q. Now, you say you pay to receive these copies of these
17 resumes, correct?

18 A. Yes.

19 Q. Do you pay per resume or you pay a subscription?

20 A. Again, I'm not in marketing. I'm not familiar with every
21 contract. I believe it's a per lead cost, but I would have to
22 check. Some of them are monthly. We pay a chunk for the month
23 and receive up to -- I'm making these numbers up -- 50 leads in
24 a month, and sometimes we pay per lead.

25 Q. Okay. Now, does RNN have exclusivity agreements with these

1 websites, that they're the only ones that can receive these
2 resumes?

3 A. No.

4 Q. Okay. So theoretically I can go now, sign up with that
5 website, and get access to all of these resumes?

6 A. I'm not sure if you could. But, yes, other agencies can.
7 I don't know how it works. But, yes, other agencies do. That
8 I know.

9 Q. Right. Do you have any reason to believe that this
10 information is made available exclusively to RNN?

11 A. No.

12 Q. Okay. So is it fair to say that this information is
13 available to any recruiter?

14 A. I don't think so, but I don't know. That would be a
15 marketing question. I don't believe they retail out that
16 information. I believe they only wholesale it, but I don't
17 know for sure.

18 Q. Would it be fair to say that it's available wholesale; to
19 anyone who's looking for this information wholesale, it's
20 available, correct?

21 A. I'm not sure. Again, I don't work with these. I don't
22 contract myself, so I'm not sure.

23 Q. Okay. And all somebody would have to do -- the only
24 requirement to get access to this information is to pay a fee,
25 correct?

1 MS. SCHWARTZ: Objection. She testified five times
2 she doesn't know.

3 THE WITNESS: I don't know. I don't know how they
4 work. I don't know if they -- you have to have an agency. I
5 don't know.

6 THE COURT: I think we can kind of move forward at
7 this point.

8 MR. HECHT: Okay.

9 BY MR. HECHT:

10 Q. Now, you mentioned before -- let's go back to the
11 trainings. You mentioned that RNN typically does not hire
12 experienced nurses and, therefore, every nurse they hire has to
13 go through the core training, correct?

14 A. Experienced recruiters.

15 Q. I mean experienced recruiters.

16 A. Yes. We do actually hire nurses, but not experienced
17 recruiters.

18 Q. Okay. Are there some exceptions where RNN does hire
19 experienced recruiters?

20 A. Uhm, the -- the only one I can think of that comes to mind
21 is one that had been a recruiter for us prior that we rehired
22 who had retired for a while to take care of her children. I
23 don't remember any others.

24 Q. Okay. So when RNN rehires somebody that's been hired
25 before, somebody that's already an experienced recruiter, would

1 that new recruit go through the same core training again?

2 A. Yes.

3 Q. And what would be the purpose of going through that core
4 training again?

5 A. Well, it depends on how long they've been out of the
6 industry. But again, just like in the nursing industry, the
7 industry does change and regulations change and the way you can
8 build pay packages changes. So any new returning recruiter
9 would go through training to get freshened up, if you will.

10 Q. Now, is there a specific time period for how long that
11 recruiter was out where no training would be required?

12 MS. SCHWARTZ: Objection, Your Honor. At this point
13 we are far outside of the scope of the direct and spent a lot
14 of time rehashing the same questions over and over. It's
15 outside the scope of the direct.

16 THE COURT: Sure. So Mr. Hecht, I'll give you some
17 leeway on this. I mean, I understand -- or at least it seems
18 to me you're trying to establish that Ms. Shafer's position,
19 one, wasn't a special position and, two, that the information
20 is readily available, but I think if we can focus on -- focus
21 that a little more, that would be great.

22 MR. HECHT: I just want to clarify to the Court. We
23 are trying to establish also -- because the noncompete,
24 non-solicitation was signed in 2012, but they acknowledge that
25 she was working before. So it's relevant when she received the

1 training.

2 THE COURT: Okay. I don't have a problem if you ask
3 that. Just, you know, I -- and I'm not trying to limit you
4 globally, but I am trying to kind of narrow it a little bit.
5 So thanks.

6 BY MR. HECHT:

7 Q. Okay. Ms. Ruffy, I would like to go over some documents
8 that were introduced previously in your direct testimony.

9 Can we start with Plaintiff Exhibit 5, which is the
10 notice of noncompete?

11 A. Okay. I have it.

12 Q. You have it.

13 Okay. Ms. Ruffy, does this represent a document that
14 was given to Ms. Shafer the day she was fired?

15 A. Uhm, it was emailed to her is my understanding. It was
16 emailed from Keela on the day she was fired, yes.

17 Q. Okay. Is this the standard document that RNN sends to
18 every employee that it fires?

19 A. We have to confirm with Keela. She's in HR. I'm in sales.
20 But my understanding is, yes, this is standard.

21 Q. Okay. Now, if you move down to paragraph 4 -- no not --
22 sorry, not paragraph 4. After paragraph 4. The last sentence
23 in that document. It talks about, "IT will be shipping you a
24 box. Once you have received it, please place your laptop,
25 docking station, and power cords inside and drop it off at your

1 nearest Fed-Ex location," correct?

2 A. Uh-huh.

3 Q. Okay. Does that document -- does that notice say anywhere
4 about -- anything about destroying documents?

5 A. It does not. But it is in the noncompete, which is on the
6 first page here, to remind her to review it.

7 Q. Okay.

8 A. Special attention concerning noncompetition,
9 non-solicitation of customers and non-solicitation of
10 employees. And, no, it doesn't reference destroying documents.
11 It references not keeping documents.

12 Q. Okay. Was RNN aware at that time that Ms. Shafer has
13 working and awaiting reports in her possession?

14 A. We did not, no.

15 Q. Was RNN aware that Ms. Shafer had any other commission
16 reports in her possession?

17 A. We would have known she had commission statements, yes,
18 because we would have sent her commission statements throughout
19 her tenure with us.

20 Q. Okay.

21 A. But not the working and awaiting.

22 Q. So RNN was aware she has commission statements?

23 A. Yes.

24 Q. And are some of these commission statements titled "Gross
25 Margin Report"?

1 A. Uhm, I'm not exactly sure what our commission folks call
2 them. It sounds right.

3 Q. And that would be like a sheet that has all the nurse
4 names?

5 A. Yes, it would have any assignment that Rachel would be
6 receiving commission on for the month.

7 Q. Okay.

8 A. It would have nurse names.

9 Q. And it would have also the facilities where those nurses
10 worked at?

11 A. Yes.

12 Q. And it will have the begin date of their contract?

13 A. And the end date, yes.

14 Q. And it will have also the rates they received?

15 A. Yes.

16 Q. Okay. Did RNN ever request Ms. Shafer to destroy those
17 gross margin reports?

18 A. We requested she return everything, yes.

19 Q. Where was that request?

20 A. Uhm, I believe it was in our cease and desist letter. I
21 don't know if I have it here.

22 Q. I mean, do you see --

23 A. Once we were made aware that she had taken it.

24 Q. But in this email is there anywhere an identification?
25 Does the email identify documents that she should be

1 destroying?

2 A. No, it does not. We didn't know she had them or we would
3 have told her to destroy them at the time.

4 Q. What you just said, that you didn't know that she had
5 commission reports, correct?

6 A. No, commission reports we knew she had. Commission reports
7 we had been sending her each month in a pdf format as a due
8 course of action so that she could audit commissions and ensure
9 that we were paying her correctly.

10 Q. Okay.

11 A. The working and awaiting we were not aware that she had
12 taken.

13 Q. Okay. Did RNN expect her to destroy the gross margin
14 reports?

15 A. No. We did expect her not to use them, but we didn't
16 expect her to destroy them. She could keep them for her own
17 records.

18 Q. Okay. RNN did put in a notice the return of the laptop,
19 correct?

20 A. Yes. In this letter? Yes.

21 Q. Can you tell me the reason why that's the only thing that's
22 identified in this document to be returned?

23 A. Because we don't expect our employees to have our
24 information in their cell phones or their laptops. We would
25 have no reason to ask them to return it because we wouldn't

1 expect them to have it.

2 Q. So --

3 A. And what we are allowing them to have, they're welcome to
4 keep for their own personal records.

5 Q. Okay. So this document only identified information RNN
6 knew at that time that Ms. Shafer has, correct?

7 A. Correct.

8 Q. Okay. Now, let's move onto Exhibit -- Plaintiff Exhibit
9 No. 10, which I believe is an email solicitation from Amanda
10 Jean Fobar, correct?

11 A. Yes, I have it.

12 Q. Okay. Have you checked whether Amanda Jean Fobar
13 previously worked for RNN?

14 A. Yes, and she did previously work for RNN.

15 Q. And do you know when she worked for RNN?

16 A. I don't have all of the assignment dates memorized, but she
17 has done several assignments with us, yes.

18 Q. Do you know if she worked for RNN within three years of
19 June 22, 2023?

20 A. I don't know.

21 Q. Is it possible she worked for RNN only more than three
22 years prior to that?

23 A. It's possible.

24 Q. Okay. So you don't have any specific knowledge whether she
25 actually worked for RNN within the last three years?

1 A. Correct. I'm sorry. You're asking if she worked outside
2 of the three years or within the last -- current three years?

3 Q. No, I'm asking -- just to clarify, my question is this
4 email was sent on June 22, 2023.

5 A. Yes.

6 Q. Do you have any knowledge that she worked for RNN within
7 three years prior to June 22, 2023?

8 A. Oh, yes. She was currently working at the time of this
9 email with RNnetwork.

10 Q. So at the time this email was sent, she was working with
11 RNN?

12 A. Yes.

13 Q. Okay. Is she still working today with RNN?

14 A. She is.

15 Q. Okay. Do you have -- did she continuously work for RNN
16 since June 22, 2023?

17 A. So there was -- yes, she was on assignment with -- I don't
18 exactly know where -- at the time that this employment
19 agreement offer came. We became aware of it. And as I
20 testified Tuesday, this is how we first became aware that
21 Rachel worked at AHS. Because there was a -- Amanda let us
22 know she received an offer from Rachel at AHS, a competing
23 offer. As it turns out, she stayed with us at RNN after that.

24 Q. So Amanda Jean Fobar never accepted the offer from Rachel,
25 correct?

1 A. Correct, unless she's working two assignments. That I
2 can't attest to. But she is working an assignment with us.

3 Q. Is it common for nurses to work two assignments at the same
4 time?

5 A. No.

6 Q. Okay. So that would be unlikely, would you say, that she
7 works two assignments?

8 A. It's unlikely.

9 Q. Okay. Now, would you describe the document attached to
10 that email as an offer, correct?

11 A. Yes, it's an employment agreement offer.

12 Q. It's not a contract that was ever executed and signed
13 between the parties, correct?

14 A. I don't know if it was executed and signed and Amanda
15 changed her mind. I can't speak to that.

16 Q. Okay. Are you aware that RNN is suing Ms. Shafer for
17 damages?

18 A. Am I aware that RNN is suing Ms. Shafer for damages? Yes.

19 Q. Okay. Do you know if RNN is seeking damages as it relates
20 to Amanda Jean Fobar?

21 A. We haven't reached that point in the discussions is my
22 understanding. But, no, I don't -- we would need to find
23 out -- no. From my understanding and what I testified on
24 Tuesday is Amanda Jean Fobar is how we got to know that she
25 worked at AHS. I did not testify that she's currently working

1 and we're going to be seeking damages. That wasn't the point
2 of this testimony.

3 Q. Okay. Do you have any reason to believe that Amanda Jean
4 Fobar ever went to work for Rachel?

5 A. I don't.

6 Q. Do you have reason to believe that she, in fact, did not
7 end up working for Rachel?

8 A. I don't.

9 Q. But you do know that she's currently still working for RNN,
10 correct?

11 A. Yes.

12 Q. All right. Let's move onto Plaintiff Exhibit 11.

13 A. Okay. I have it here.

14 Q. And I believe you testified this is an email that
15 Ms. Shafer emailed to herself on March 28, 2023?

16 A. Correct.

17 Q. And did you testify also as to the purpose of why she
18 emailed this document to herself?

19 A. I testified what my thoughts were as to why, yes.

20 Q. And what was your testimony as to your thoughts?

21 A. So this is an internal process describing what were to
22 happen if somebody -- an internal employee were to find out
23 that a departed employee went to a competitor or was soliciting
24 employees. And I presume she sent it to herself so that she
25 could have knowledge of what our process is.

1 Q. Okay. What is the basis for your thought that she did that
2 in order to compete?

3 A. The basis is this is an internal process that describes a
4 procedure to mitigate that kind of behavior. She wasn't
5 involved during her employment with us with any other employee.
6 There would be no reason for her to know this as a current
7 employee because she's not a leader and she doesn't necessarily
8 need to be involved in any of this escalation. So the only
9 reason for a recruiter to know this is if they wanted to learn
10 how to circumvent it.

11 Q. Okay. Now, you said that part of why she didn't know --
12 part of your thought process was because she was not a leader?

13 A. Correct.

14 Q. But would leaders have access to this document?

15 A. Yes, this is -- this is -- this process is available to any
16 employee of RNnetwork. It's in our process section.

17 Q. Okay. So this is available within the RNnetwork for
18 anybody, correct?

19 A. Yes.

20 Q. So did Ms. Shafer violate any company policy by accessing
21 this document?

22 A. She did not.

23 Q. Okay. And how would Ms. Shafer -- how would somebody know
24 that such a document exists?

25 A. Well, it was a process that we rolled out in October of

1 2022 throughout the division. At my level we rolled it out to
2 leaders. The leaders then shared it with their teams.

3 Q. So this document is shared with the teams?

4 A. Uh-huh.

5 Q. So do you have reason to believe it was shared with
6 Ms. Shafer as part of the team?

7 A. I can't attest to that one way or the other. I did not
8 share it with her directly, but it could have.

9 Q. Is it possible that Ms. Shafer reviewed that document so
10 she understands what she's allowed to do and what she's not
11 allowed to do?

12 MS. SCHWARTZ: Objection. Calls for speculation.

13 THE COURT: Again, I'll give you some leeway, but
14 these "is it possible questions," it doesn't really matter what
15 her answer is. Thanks.

16 BY MR. HECHT:

17 Q. Okay. Let's move onto Exhibit 23, Plaintiff's 23.

18 A. Okay. I have it.

19 Q. And I believe your testimony was that this is an email that
20 reflects some text messages between Ms. Shafer and Emily Sporl?

21 A. Correct, this was reported to us by Emily Sporl.

22 Q. Okay. And I believe you also said that Emily Sporl is not
23 a nurse?

24 A. Correct. She's an internal employee.

25 Q. Okay. But you also said that even though she is not a

1 nurse, she is entered in the system as a nurse?

2 A. Yes. She entered her own name and contact information into
3 our database and pretended to be a nurse in there, put nurse
4 information, so that she could test our software system that is
5 targeted for nurses.

6 Q. Okay. And can you describe what you mean she can test your
7 software system?

8 A. So our nurses who are interested in applying with us go
9 into an app and enter their information, and all their -- and
10 then upload their documents. And we had a new software system
11 that we introduced some time ago, we have two versions, and as
12 a recruiter assistant she entered in her information into that
13 application which put her information in our database as a
14 nurse, and then she kept it alive so she could continue to
15 monitor as a nurse what our processes look like.

16 Q. Do you know when Emily Sporn entered her information in the
17 system as a nurse?

18 A. I do not.

19 Q. But you know that she did?

20 A. I do. I did confirm her name was in the database --

21 Q. And --

22 A. -- as a nurse.

23 Q. And how did you confirm that?

24 A. I checked when we received this.

25 Q. And when was that?

1 A. Uhm, I'm not exactly sure when I received the first
2 notification from Emily. I would have to look at my records.
3 But Emily reported to her leader and then her leader reported
4 to me I believe each time that she received a text from Rachel.
5 So on or around the 23rd and the 17th and then the 30th.

6 Q. The email has a date of August 30?

7 A. Yes.

8 Q. Okay. Is it fair to say that that's the day that she
9 reported that, that Emily Sporn reported that?

10 A. The last time, yes.

11 Q. Okay. But you said it may have been that she reported
12 previous times on prior occasions as well?

13 A. I believe she may have. I'm not a hundred percent certain.

14 Q. Do you remember her sending any notifications prior to
15 August 30?

16 A. Uhm, I remember her -- Christina notifying me of one other
17 prior, yes.

18 Q. You remember her notifying you on August 30 of a prior
19 incident or you remember on a prior occasion that she notified
20 you?

21 A. I remember being notified. I don't have it in front of me.
22 I know that all of that I send up to legal as soon as I hear
23 about it and then I move on with my day. So I don't have an
24 exact recollection of whether I was notified.

25 Q. Okay.

1 A. But I can tell you Emily recognized it.

2 Q. Okay. So on August 30 there is an email that the
3 notification came to you through an email. Was that a typical
4 method used in the office to notify you about an incident like
5 that?

6 A. You mean would I typically receive it via email?

7 Q. Yes.

8 A. Not necessarily, no. Sometimes I receive it via internal
9 message. Sometimes it's a phone call. It could be various
10 ways.

11 Q. Okay. Have you checked if you have any internal messages
12 or any emails from Emily Sporl or anybody else about this
13 incident prior to August 30?

14 A. Have I checked if I received anything? No.

15 Q. Now, these messages were sent by text message, correct?

16 A. Correct.

17 Q. These are not -- when I say "messages," I mean the message
18 alleged that's coming from Ms. Shafer to Ms. Sporl. These are
19 test messages, correct?

20 A. Yes.

21 Q. Okay. And I asked you before if you know when Emily Sporl
22 was entered in the system as a nurse.

23 Okay. Do you have any information that she was
24 entered as a nurse in the system prior to August 30?

25 MS. SCHWARTZ: Objection. Asked and answered multiple

1 times.

2 THE WITNESS: I don't know.

3 THE COURT: So, I mean, it has been asked and
4 answered. I think we really need to keep moving forward. I'll
5 sustain that.

6 BY MR. HECHT:

7 Q. Okay. Now, if you look in page number 3 of that document,
8 first entry, there is a date there. It says March 17, 2022.

9 A. Yes.

10 Q. What is your understanding that this date means?

11 A. It's the date that this graph was entered in our system,
12 but I can't read what the graph is.

13 Q. What is the date of Friday -- below there there is a date
14 Friday, June 23. What does that date mean?

15 A. It's the date that this text was sent. My understanding is
16 the date that the text was sent from Rachel to Emily.

17 Q. Okay. And then there is in the bottom another date,
18 Thursday, August 17th. What does that date represent?

19 A. That would be the date that the second text was sent from
20 Rachel to Emily.

21 Q. Okay. Now, do you have any reason to believe that the
22 first date, March 17, 2022, represents a date when a text was
23 actually sent?

24 A. I don't follow the question. It's kind of irrelevant,
25 isn't it, what happened in March of 2022?

1 Q. All right. Would it be fair to say that it reflects a
2 date -- the March 17, 2022, reflects a date of when a text
3 message was received?

4 A. That graph you mean?

5 Q. Yes.

6 A. Yes.

7 Q. Okay.

8 A. Correct.

9 Q. So that graph was a text message?

10 A. Yes.

11 Q. Okay. So based on this document, Ms. Sporl and Ms. Shafer
12 have communicated via text message back in March 17, 2022,
13 correct?

14 A. Yes.

15 Q. Okay.

16 A. She was a recruiter assistant, so it's likely they
17 communicated quite often, not just this text.

18 Q. Okay. So is it your understanding that Emily Sporl was a
19 colleague of Ms. Shafer?

20 A. Yes, she was.

21 Q. Is it your understanding that she knew Ms. Shafer well?

22 A. Yes, she did.

23 Q. Okay.

24 A. She was her assistant for a short period of time.

25 Q. Okay.

1 A. Which begs the question on why Rachel thinks she's a travel
2 nurse today, but maybe you'll get to that question.

3 Q. Do you have colleagues that you work with at RNN?

4 A. I do.

5 Q. Do you have their contact information in your cell phone?

6 A. I have some, yes.

7 Q. Okay. So is it fair to say that colleagues communicated
8 via text message between each other?

9 MS. SCHWARTZ: Objection. This calls for speculation
10 and outside the scope of the direct again.

11 THE WITNESS: It is fair -- I'll answer.

12 THE COURT: Well, no. Listen, we have to move it
13 forward. I mean, I think one thing sometimes lawyers forget is
14 that the Court's been around a long time. I'm just short of my
15 60th birthday. I mean, people communicate by text. You don't
16 have to establish that kind of stuff. I mean, you can -- I'll
17 let you argue all of that because I think it's a given.

18 BY MR. HECHT:

19 Q. Last time in your testimony we introduced a document called
20 "Working and Awaiting," and I believe that document had a few
21 thousand nurses in it.

22 Did you check that document, if Emily Sporl was
23 included in that document?

24 A. Yes, Emily Sporl is not included in that document.

25 Q. Okay. I believe we introduced multiple documents with

1 reports about nurses that Ms. Shafer emailed to herself, right?

2 A. Correct.

3 Q. Did you check all of those documents if Emily Sporn was
4 included in any of those documents?

5 A. I have not checked.

6 Q. Okay. But the ones that you did check, she was not
7 included as a nurse in that document, correct?

8 A. She was not in our working and awaiting because she was not
9 a working nurse, correct.

10 Q. Okay. Now, you recall the working and awaiting document
11 that we have here, it had some information included in it --

12 A. Uh-huh.

13 Q. -- about the nurse. Did it include a phone number?

14 A. It did not.

15 Q. Okay. So the working and awaiting reports do not include
16 phone numbers of nurses, correct?

17 A. Correct.

18 Q. Okay. So if someone would want to text a nurse, they would
19 not be able to text a nurse based on a working and awaiting
20 report, correct?

21 A. Correct. It would have to have been taken directly out of
22 our database.

23 Q. Okay. Now, we have your testimony last week about RNN's
24 system, IT system, that they track all of the access of their
25 employees. Is that your understanding?

1 A. Yes. I'm not the IT expert however.

2 Q. But is it your understanding that RNN tracks access of its
3 employees?

4 A. Yes.

5 Q. Okay.

6 A. I have a rudimentary knowledge of how that works, but I'm
7 aware, yes.

8 Q. Okay. So based on your understanding and your knowledge
9 about the RNN's tracking access of employees, would RNN be able
10 to track if Ms. Shafer accessed Emily Sporl's information in
11 your system?

12 A. Uhm, depends how she would have accessed it. If she pulled
13 up Emily's account and handwrote it on a piece of paper or put
14 it in her cell phone, we would have no way to see that. If she
15 somehow tried to move the data, yes, we would have seen it.

16 Q. Did you check to see if she -- if there's any recording in
17 the system about Ms. Shafer accessing Ms. Sporl's information?

18 A. I did not.

19 Q. Okay. Let's move over to Exhibit -- Plaintiff's Exhibit 8.

20 A. Okay. I have it.

21 Q. Okay. Now, you remember you testified about this email as
22 well --

23 A. Yes.

24 Q. -- in your direct examination?

25 Can you describe to me what is this email?

1 A. So this is an email sent from one of Rachel's peers,
2 Alaina, to her leader Chrissy alerting her --

3 I'm sorry. Were you talking about the top section or
4 the bottom section? Because there's two things here. The top
5 section -- I'm starting to describe the top section.

6 Q. Okay.

7 A. Yeah.

8 Q. Yeah.

9 A. And it was a provider that notified -- a former provider of
10 Rachel's now being serviced and helped for by Alaina who tried
11 to approve an extension assignment. And the nurse let her know
12 that she was going to be going back to her old recruiter, which
13 would be Rachel, and that -- but if the rate was right, that
14 her and her friend would travel for whoever pays the most.

15 Q. Now, who is Haley Hohnorst?

16 A. She is a provider that used to work for -- an RNN provider
17 on assignment that was under Rachel's care at the time of her
18 departure and then was given to Alaina to help.

19 Q. Okay. So is it fair to say that she is a nurse?

20 A. Yes.

21 Q. Okay. Do you know when she started working for RNN?

22 A. I don't.

23 Q. Okay. Do you know if at the time of this email, which is
24 July 14, 2023, whether Haley was working for RNN?

25 A. Yes, she was.

1 Q. She was.

2 Do you know if prior to working for RNN if she worked
3 for any other company?

4 A. I don't. I don't know.

5 Q. Does RNN typically have this type of information about a
6 nurse, whether she worked for another company?

7 A. Sometimes if the nurse shares that information. Well, yes,
8 in their resumes it would show where they worked prior. So we
9 would have that information on file. I just don't have it.

10 Q. Okay. Did you check if she worked for another company
11 prior to working for RNN?

12 A. I did not.

13 Q. Okay. Now, she says I'm probably going back to my old
14 recruiter, correct?

15 A. Uh-huh.

16 Q. And you said that the old recruiter means Rachel?

17 A. Correct.

18 Q. How do you know that she's referring to Rachel?

19 A. As opposed to a different recruiter? I don't know that
20 fact.

21 Q. Okay. So it's possible that she is talking about the old
22 recruiter that she worked with prior to RNN?

23 A. Possibly, yes.

24 Q. Okay. Did she say here the old recruiter asked her to come
25 work for her?

1 A. I only see what you see, and the answer would be no. It
2 says what it says here.

3 Q. So based on your understanding of reading this message, you
4 don't see anything that Ms. Hohnorst is saying that she was
5 solicited by an old recruiter to come work for her, correct?

6 A. Correct.

7 Q. Okay. Does Haley Hohnorst still work for RNN today?

8 A. I don't know.

9 Q. Did you check to see if she is still working for RNN today?

10 A. I did not check.

11 Q. Okay. Now, by the end she says I will "travel with whoever
12 pays the most," correct?

13 A. Correct.

14 Q. Is that typical? Is that your typical experience with
15 nurses, that they go to whoever pays the most?

16 A. No, not always. I mean, yes, they might if they have the
17 same exact job with better pay here, but sometimes they choose
18 a location or recruiter over pay.

19 Q. Okay. Now, the message starts with, "Morning! The one
20 week extension was approved." Do you see that, the first part
21 of the message?

22 A. I do.

23 Q. Do you know what the one-week extension she's referring
24 here to?

25 A. Would be a -- Haley's offer from her current employer to

1 work an extra week at that facility.

2 Q. Would it be fair to say that based on this message that
3 within a week her employment with RNN would be complete?

4 A. No, that wouldn't be fair to say. She could be extended
5 again and again and again. That's quite often. 40 percent of
6 our placements are extensions.

7 Q. Okay. Do you know if Haley Hohnorst ever went to work for
8 AHS Staffing?

9 A. I don't know. I personally do not know.

10 Q. Okay. Do you have any reason to believe that she is not
11 working for RNN today?

12 A. No.

13 Q. Okay. All right. Now, the second -- the second part of
14 the email -- there's an additional part of the email I believe
15 that doesn't refer to Haley Hohnhorst anymore?

16 A. Correct.

17 Q. What is that part of the email?

18 A. This is a -- our HR Department found a text communication
19 between Elizabeth Streber, who was the recruiter who took over
20 for Rachel working with Jordan Newstadt, who is the nurse, and
21 her attempt to continue to work with her. And it's a text
22 string between Jordan and Elizabeth.

23 Q. Okay. So is this a text message between Jordan and
24 Elizabeth?

25 A. Correct.

1 Q. And the portion that says "Comments" is the actual content
2 of that text?

3 A. Correct.

4 Q. Okay. So there's a comment going back to April 7, 2023.
5 Is that a text that Jordan Newstadt sent to Elizabeth?

6 A. Correct. It says "Inbound SMS." It's an inbound text from
7 Jordan to Elizabeth letting us know she was not going to work
8 with us anymore.

9 Q. Okay. Now, who is Jordan Newstadt?

10 A. She's a nurse.

11 Q. Okay. Was she a nurse working for RNN?

12 A. She was.

13 Q. Do you know when Jordan Newstadt had her last assignment
14 with RNN?

15 A. I would have to check the dates. I don't have that in
16 front of me.

17 Q. Okay. Do you know if Jordan Newstadt was a nurse with RNN
18 within the three-year period of August -- I mean April 7, 2023?

19 A. Yes, she was -- this is one of Rachel's -- the nurses that
20 Rachel had that we transitioned to Elizabeth.

21 MR. HECHT: Your Honor, we would like to introduce
22 impeachment evidence here, an affidavit that we obtained from
23 Jordan Newstadt stating that he was not a nurse for RNN. We
24 obtained this affidavit yesterday from him.

25 THE COURT: Okay. Obviously, show it to opposing

1 counsel so she knows whether she has any objection to it. You
2 know, I'm happy to look at it. I may be remembering the
3 testimony incorrectly in terms of what I'm reading, but, I
4 mean, is part of your argument that the email responses,
5 including, I'm going to go back to my previous recruiter, were
6 authored by someone else?

7 MR. HECHT: That's part of the argument. But, Your
8 Honor, we're also arguing that he was not working as nurse for
9 at least five to six years prior to that email from RNN. Even
10 if she was soliciting, she wouldn't be soliciting somebody
11 that's worked within the three years, in violation of that
12 agreement.

13 THE COURT: I'm happy to look at it. But any
14 argument?

15 MS. SCHWARTZ: I mean, I -- just the obvious argument
16 that I have no way to question the witness about the
17 authenticity of the document or the veracity the statements in
18 the document. I understand hearsay is admissible in these
19 proceedings.

20 THE COURT: Sure. I mean, I'll go ahead and take it.
21 I mean, I do think these things need to be disclosed. I guess
22 you can fall back and say it's impeachment. But I'm happy to
23 take it if you want to pass it up.

24 Okay. Just so I know going forward in any order I
25 write, is Jordan Newstadt a man or a woman?

1 MS. SHAFER: Man.

2 MR. HECHT: It's a man.

3 THE COURT: Okay. So you wanted to move this into
4 evidence. This will come in as -- we'll just call it -- you
5 just want me to call it Defense 1 or how do you want me to --

6 MR. HECHT: Yes, we can call it Defense 1.

7 (Received in evidence Defendant's Exhibit(s) 1.)

8 BY MR. HECHT:

9 Q. Ms. Ruffy, do you see here the affidavit of Jordan Newstadt
10 where he said that on June -- in June of 2023 he approached
11 Ms. Shafer and prior to that he did not work for RNN for at
12 least five to six years?

13 A. I do see that, yes.

14 Q. Okay. After seeing that statement, do you still recollect
15 that he worked for RNN within three years prior to June 2023?

16 A. Yeah, I apologize. For us, anybody who's worked with us
17 any time in the past, we call them alumni and we treat them as
18 active providers. I have not checked the records to see when
19 he last worked with us.

20 Q. Okay. So you recant your statement that you checked
21 that --

22 A. I didn't say I checked. I said I knew him to be a working
23 provider with RNnetwork.

24 Q. Okay.

25 A. But I did not check the final date when he ended.

1 THE COURT: One question, Mr. Hecht. This case wasn't
2 even filed until September of 2023. This affidavit is from
3 June. What's going on?

4 MR. HECHT: I think, Your Honor, I -- I got it
5 yesterday. He just put the dates wrong. It's actually 11/6,
6 but he put 6/11, like the European style. It was done with a
7 pdf signature. And I have the documents that shows that we got
8 it signed yesterday.

9 THE COURT: That's a fair explanation. You're saying
10 instead of 6/11, it's really the 6th of November.

11 MR. HECHT: Yes.

12 THE COURT: All right.

13 BY MR. HECHT:

14 Q. Now, let's go back to the Plaintiff Exhibit 8 where
15 Mr. Newstadt talks about -- the text message that goes with
16 Mr. Newstadt. Just so I understand correctly, are both text
17 messages received from Mr. Newstadt or some of them are sent to
18 Mr. Newstadt?

19 A. Neither are sent to Mr. Newstadt. One is received from
20 him, and the other one is an internal note.

21 Q. Which one is the internal note?

22 A. The one on the first page. "Not very happy with us as a
23 company. Mad about Rachel, but I let her know to reach out for
24 anything."

25 Q. So that's not a text that Mr. Newstadt sent, right?

1 A. It was not.

2 Q. Okay. This is just a text that was entered by Elizabeth
3 Streber?

4 A. Yes.

5 Q. Okay.

6 A. Yes, his text is the "Oh, unfortunately RNN fired my
7 favorite recruiter after 17 years so I won't ever be working
8 with this company again." That's his text to Elizabeth.

9 Q. So is Mr. Newstadt expressing in that text that he does not
10 wish to continue working with RNN?

11 A. Yes.

12 Q. Okay. I'll ask you again the same question I asked before
13 about another nurse. Is RNN in its complaint seeking damages
14 related to Mr. Newstadt in this case?

15 MS. SCHWARTZ: Objection, Your Honor. This is again
16 outside the scope of the direct, and this is a preliminary
17 injunction prior to any discovery being taken, we have not
18 prepared any evidence or testimony on damages.

19 THE COURT: Okay. If you want to rephrase it as to
20 the word "damages," I'll allow the question. I mean, if you're
21 asking is CHG arguing that Rachel Shafer violated the
22 restrictive covenant through her actions with Jordan Newstadt,
23 I'll allow that question.

24 BY MR. HECHT:

25 Q. Can you answer that question?

1 A. Sorry. Could you re-ask it?

2 Q. Did Ms. Shafer violate her CHG agreement by hiring -- by
3 soliciting or hiring Mr. Newstadt?

4 A. Well, that's what we would like to find out. We have
5 officially asked for her to return all her records pertaining
6 to any interactions with RNN nurses so that we could assess if
7 there were any damages due, or if she could -- according to the
8 testimony from Mr. -- I can't remember his name -- the
9 anonymous caller, this is a provider that has worked at AHS
10 through Rachel. We would like to assess that.

11 Q. Okay. Now, other than that information that you received
12 from the anonymous caller, do you have any information either
13 based on this text or based on any other information that it's
14 RNN's position that Ms. Shafer violated her noncompete by
15 hiring Mr. Newstadt?

16 A. No.

17 MR. HECHT: Okay. Your Honor, can we take a five
18 minutes to see if I --

19 THE COURT: Let me ask you this before we take the
20 five minutes, because it's also a reasonable time to break for
21 lunch. Are we taking the five minutes because you may have
22 concluded?

23 MR. HECHT: Yeah.

24 THE COURT: Okay.

25 MR. HECHT: I just want to review one more time to see

1 if I have something.

2 THE COURT: Sure. Let's take five minutes then.

3 I'm not going to get up and go anywhere. Let me know
4 when you've made that decision. And if you think it's -- we're
5 just 10 or 15 minutes away, we'll go ahead and finish up your
6 examination before we break for lunch. Thank you.

7 MR. HECHT: Thank you, Your Honor.

8 (Recess at 11:59 a.m.)

9 MR. HECHT: I just have one more question.

10 THE COURT: Sure.

11 BY MR. HECHT:

12 Q. Ms. Ruffy, if you remember before, we were talking about
13 two different reports. There's a working and awaiting report
14 and there's a gross margin report. And I asked you whether you
15 expect Ms. Rachel to destroy the gross margin report, and you
16 said no because she needs it for her commissions, correct?

17 A. Correct.

18 Q. But you wanted her to destroy the working and awaiting?

19 A. I would like for her to return it to us.

20 Q. Okay. What's the main reason -- what distinguishes the
21 working and awaiting report from the gross margin report that
22 makes it -- that you want her -- what's the main reason you
23 want her to destroy it? What information is on that report
24 that you don't want her to have?

25 A. Well, in addition to -- there's additional information.

1 For example, the candidate's email, their specialty, their
2 preferred shifts, which would make it easier for future
3 placement. But the biggest thing in addition to that is that
4 all of the providers that RNnetwork has under placement, not
5 just Rachel's. So every recruiter in our company that's made a
6 placement she has access to. We would like for her to return
7 it to us so she cannot solicit.

8 Q. Okay. Is it fair to say that the main reason you want her
9 to destroy that document is because it contains nurses that she
10 did not recruit?

11 A. And additional information on her own nurses, yes.

12 Q. Okay. Thank you.

13 MR. HECHT: No further questions at this time.

14 THE COURT: Thank you, Mr. Hecht.

15 Ms. Schwartz, what's your position in terms of
16 redirect? Do you have any? If so, how long?

17 MS. SCHWARTZ: I have a little bit. I think maybe
18 five minutes, Your Honor.

19 THE COURT: Oh, okay. Why don't we give that a shot,
20 too.

21 MS. SCHWARTZ: Okay.

22 THE COURT: Knock that out and be concluded with the
23 witness.

24 MS. SCHWARTZ: Okay. Sounds good.

25 THE COURT: Okay.

REDIRECT EXAMINATION

BY MS. SCHWARTZ:

Q. Ms. Ruffy, you've been asked a lot of questions about why RNnetwork wants to get the working and awaiting sheets back from Ms. Shafer's possession but is okay with her retaining the commission reports.

Okay. Do you have the gross margin commission report in front of you to even refer to when answering Mr. Hecht's questions?

A. I do not.

Q. And do you have any idea what's even on those reports as he was asking you those questions?

A. Not the specific ones he's referring to.

Q. Okay. But you did testify that you know that the commission reports that were sent to Ms. Shafer, they don't have -- do they have any contact information for nurses?

A. They do not.

Q. Were they sent to her in an Excel spreadsheet that would be easily searchable if she needed to make a quick placement?

A. No, they are in pdf format.

Q. Did the commission reports contain information about 2,500 nurses?

A. No, just her nurses that worked during that time period.

Q. Okay. And you testified that the commission reports would not identify the nurses' specialties, correct?

1 A. Correct.

2 Q. Why is that important?

3 A. Because it allows to make the placement. So as I
4 mentioned, we work with nurses across the country in dozens of
5 different specialties. So the jobs that come in are very
6 specialized.

7 Q. Do the commission reports contain information about the
8 shifts that the nurses prefer to work --

9 A. Correct.

10 Q. -- due to the commissions report?

11 A. They do. No, not the commissions report. The working and
12 awaiting does. The commissions reports do not.

13 Q. Okay. And can you tell from the working and awaiting
14 documents how much money is being billed to health care
15 facilities all over the country for the nurses that RNN places
16 there?

17 A. Yes. Not just Rachel's, but everybody's.

18 Q. Okay. And is information pertaining to -- strike that.

19 So fair to say that the working and awaiting
20 spreadsheets contain significant trade secrets that do not
21 exist in the commission reports?

22 A. Yes. Absolutely.

23 Q. Now, even though RNN gave Ms. Shafer the commission
24 reports, was there any expectation that she would not take them
25 over to a competitor?

1 A. Yes, it was in her noncompete, non-solicit. It's part of
2 confidential information, that she's not to use it outside of
3 her own -- for her own purposes, which in this case would be
4 reconciling her commissions, and that's it.

5 Q. When Ms. Shafer asked RNnetwork to send her commission
6 reports following her termination, did the company know that
7 she was working at AHS?

8 A. We did not.

9 Q. If the company knew that she was working at a competitor,
10 would it have sent her that information?

11 A. We would not have.

12 Q. You testified kind of at length about the specialized
13 training that nurses receive at RNnetwork with regard to
14 knowing how the credentialing process works in different states
15 around the country and knowing how to sell jobs to nurses by
16 understanding how to read the postings for the different types
17 of jobs. Do you remember that testimony?

18 A. Yes.

19 Q. And I believe you also testified Ms. Shafer had never
20 worked in the nurse recruiting industry before she was hired at
21 RNnetwork, correct?

22 A. Correct.

23 Q. How would she know how to do this job and be the top third
24 recruiter in the country if she never received any training?

25 A. She wouldn't have. She learned everything she knew through

1 RNnetwork.

2 Q. I just want to direct your attention very quickly to
3 Plaintiff's Exhibit 8.

4 A. I have it.

5 Q. What is the title, the subject title of the email that RNN
6 employee Alaina Robertson wrote?

7 A. Alaina's subject title is "Nurses leaving us to work with
8 Rachel."

9 Q. Does that title indicate to you that Ms. Robertson believed
10 Haley Hohnhorst was going to work with Rachel or some other
11 prior recruiter?

12 A. Yes, it would lead me to believe that Alaina had concluded
13 based on her exchange with Haley that Haley had announced her
14 intention to work with Rachel specifically.

15 Q. And finally I want to turn your attention to Defendant's
16 Exhibit 1, which is the un-notarized affidavit of Jordan
17 Newstadt.

18 A. I have it.

19 Q. Okay. Now, according to that affidavit, it says that
20 Jordan did not work with RNN for five years prior to 2023.

21 So Mr. Hecht asked you would it have then been a
22 violation of Rachel's agreement to solicit Jordan to go work at
23 AHS. Do you remember that question being asked of you?

24 A. I do.

25 Q. Would it be a violation of Rachel's agreement if she used

1 RNN information about Jordan in order to place him at AHS?

2 A. It would be.

3 Q. Even though he hadn't worked for the company for
4 five years?

5 A. Yes, that's correct.

6 Q. If that's even true.

7 Would keeping -- was keeping information that belonged
8 to RNN about its nurses a violation of Rachel's agreement?

9 A. Yes.

10 Q. Was using RNN's information about nurses a violation of her
11 agreement?

12 A. Yes.

13 Q. What about the fact that Rachel was working at AHS so that
14 she was in a position to even place Jordan Newstadt less than
15 12 months after her termination. Was her employment with AHS a
16 violation of her agreement?

17 A. Yes.

18 MS. SCHWARTZ: I have no further questions.

19 THE COURT: Thank you, Ms. Schwartz.

20 Mr. Hecht, anything else?

21 MR. HECHT: No, Your Honor.

22 THE COURT: Okay. I just have one question, and it's
23 just something I may have missed.

24 You had testified that you were 15 years with CHG, six
25 years with RNN. The case is CHG doing business as RNN. So I

1 guess my question is, is the six a subset of the 15 or is it 15
2 plus six or --

3 THE WITNESS: It's a subset.

4 THE COURT: Okay. Got it.

5 THE WITNESS: I joined CHG in 2008, transitioned over
6 to RNN's division in 2017.

7 THE COURT: All right. Thank you very much. Thank
8 you for your time.

9 (Witness was excused.)

10 THE COURT: Everyone, let's take an hour and 15
11 minutes for lunch, that will bring us back at 1:30, and then
12 we'll continue on. Thank you so much.

13 (Recess at 12:15 p.m.)

14 (Call to Order of the Court.)

15 THE COURT: Okay, everyone. Please have a seat.
16 Welcome back.

17 We're going to continue on then with CHG Medical
18 Staffing versus Rachel Shafer.

19 Is Ms. Shafer the last witness for both sides?

20 MR. HECHT: Yes, Your Honor.

21 THE COURT: Okay. I know we had talked about it
22 briefly. What did we decide?

23 Ms. Schwartz, are you going to call Ms. Shafer as part
24 of your case or are you just going to kind of end your
25 presentation and then it goes over to Mr. Hecht to call the

1 witness? It doesn't matter to me.

2 MS. SCHWARTZ: No, I'm going to call Ms. Shafer as
3 part of our case.

4 THE COURT: All right. And then as far as the
5 questioning, though, since she's the last witness, I mean,
6 let's just get it all done with her on the stand once as
7 opposed to calling her and then calling her again in the
8 defense case. Make sense?

9 MR. HECHT: Yes. Your Honor, I would just suggest
10 that since Ms. Shafer is my primary witness, I don't think we
11 going to be doing cross. So I think it may be more efficient
12 if we start with Ms. Shafer and then she can cross her and have
13 her as a primary witness in the same time so we don't have her
14 three times back and forth.

15 MS. SCHWARTZ: I disagree. Ms. Shafer is a witness on
16 our witness list. It's plaintiff's case. We're still on
17 plaintiff's case in chief, and we're calling her.

18 THE COURT: You can call her. That's completely up to
19 you. I think his point was that he would direct and you would
20 cross. But I understand if you want to direct. That's fine.

21 So Ms. Shafer, come on up.

22 THE COURTROOM DEPUTY: Would you raise your right
23 hand, please.

24 RACHEL SHAFER, PLAINTIFF'S WITNESS, SWORN

25 THE COURTROOM DEPUTY: You may be seated. State your

1 name and spell your last name for the record, please.

2 THE WITNESS: Rachel Shafer, S-H-A-F-E-R.

3 DIRECT EXAMINATION

4 BY MS. SCHWARTZ:

5 Q. Ms. Shafer, when was your first day of work at RNnetwork?

6 A. I don't remember the exact month, but 2006.

7 Q. Okay. And isn't it true that you quit a couple years later
8 to work as a nurse?

9 A. Uhm, I worked part time for them while I was in nursing
10 school, and for six months I separated and then came back.

11 Q. So is the answer, yes, you did quit to go work as a nurse?

12 A. Yes.

13 Q. And what year did you quit your job at RNnetwork?

14 A. I don't recall the exact year. Somewhere around 2008-ish,
15 2009.

16 Q. And before you quit from RNnetwork in 2008 or nine, you
17 testified that you were working part time. What position were
18 you working part time in?

19 A. Uhm, I did whatever they needed to. So if a recruiter was
20 out, I would cover their desk, I would enter jobs for them.

21 Q. Are you finished?

22 A. Things of that nature.

23 Q. So isn't it true that when you performed work for RNnetwork
24 on part-time basis before you quit in 2009, you were working as
25 a part-time associate recruiter who was more of an assistant to

1 the nurse recruiters?

2 A. No.

3 Q. Well, you just testified that you would do whatever they
4 needed help with, correct?

5 A. As a recruiter.

6 Q. And so is it your testimony that you never worked as an
7 assistant to the recruiters at RNnetwork?

8 A. Correct.

9 Q. You never held a job as assistant recruiter?

10 A. Correct.

11 Q. So after you quit in 2009 to work as a nurse, when did you
12 reapply for a job at RNnetwork?

13 A. Uhm, in 2012 the president called me and asked that --
14 asked. I had 24 hours to decide whether I wanted to continue
15 with nursing or come back, and I decided to come back.

16 Q. And isn't it true that in 2012, that was the first time you
17 were hired to work at RNnetwork in the position of full-time
18 nurse recruiter?

19 A. False.

20 Q. You just testified that you worked as a part-time employee
21 prior to quitting in 2009.

22 A. You just said that I wasn't basically a full-time recruiter
23 before then. From 2006 until I was part time I was a
24 recruiter.

25 Q. When you came back to work at RNnetwork in 2012, what

1 position did you come back to?

2 A. A recruiter.

3 Q. Is that a full-time nurse recruiter?

4 A. Yes.

5 Q. Did you sign an employment agreement upon hire?

6 A. Yes.

7 Q. What was your primary job duty as a nurse recruiter for
8 RNnetwork in 2012?

9 A. Sourcing candidates, finding them, qualifying them,
10 building relationships with them, continued contact. I also
11 gave them my personal cell phone for 24/7 emergency contact
12 since our emergency line didn't ever pick up.

13 Q. My question was what was your primary job?

14 A. Recruiter. All sorts of recruiter jobs.

15 Q. Would you say it was your primary job duty to place travel
16 nurses in temporary positions at health care facilities?

17 A. Correct.

18 Q. Okay. And those are the same jobs duties you performed at
19 AHS Staffing, correct?

20 A. Yes.

21 Q. I'm sorry?

22 A. Yes.

23 Q. Okay. And did you have any experience in nurse staffing
24 before you were hired by RNnetwork?

25 A. No.

1 Q. I would like to show you what I'm having marked as
2 Plaintiff's Exhibit 34.

3 Exhibit 34 is a printout of your public LinkedIn page,
4 correct?

5 A. Correct.

6 Q. And on page 2 of the document that's where you identify
7 your employment history, the last employer being AHS Staffing.
8 Do you see that?

9 A. Correct.

10 Q. Where did you work before you were hired at RNnetwork?

11 A. It's not on here, but student nursing and the nurse
12 overlaps RNnetwork.

13 Q. Okay. So did you work as a student nurse at Baptist Health
14 before you were hired at RNnetwork?

15 A. No.

16 Q. Did you work anywhere for any employer prior to being hired
17 by RNnetwork?

18 A. Yes.

19 Q. Where did you work?

20 A. Uhm, I worked for the Continental Group as an assistant to
21 a property manager, property management group.

22 Q. Okay. Now, when you came back to RNnetwork in 2012, you
23 were required to sign an employment agreement that contained
24 confidentiality, noncompetition, and non-solicitation
25 provisions, correct?

1 A. Correct.

2 Q. Okay. So I would like to direct your attention to
3 Exhibit 2. It should be in front of you. Let me know when you
4 have that.

5 MS. SCHWARTZ: And, Your Honor, I would like to move
6 to admit Exhibit 34 into evidence.

7 THE COURT: Any objection?

8 MR. HECHT: No, Your Honor.

9 THE COURT: 34 will come in.

10 (Received in evidence Plaintiff's Exhibit(s) 34.)

11 BY MS. SCHWARTZ:

12 Q. Do you have the agreement, Ms. Shafer?

13 A. Yes.

14 Q. Okay. This is the employment agreement, including
15 confidentiality, noncompetition, and non-solicitation
16 provisions that you signed when you were hired on July 26,
17 2012, at RNnetwork, correct?

18 A. Correct.

19 Q. And if you turn to the last page, is that your signature
20 above where it says "Signature of Employee"?

21 A. Yes.

22 Q. Did you understand that RNnetwork was not going to hire you
23 or give you access to its database with its confidential
24 information and trades secrets unless you signed this
25 agreement?

1 A. Correct.

2 Q. I would like to direct your attention to paragraph 2, which
3 is entitled "Confidential Business Information."

4 Now, it states that, among other things, all
5 information relating to clients, health care personnel, their
6 names, phone numbers, email addresses, preferences, types of
7 recruitment, placement services, and financial information
8 relating to the company is considered confidential and
9 proprietary information of the company. That's what it says,
10 correct?

11 A. Correct.

12 Q. And you understood when you signed this agreement that
13 nurse provider lists or client lists, even the ones that you
14 created or added to or had access to during your employment,
15 belonged to RNnetwork, right?

16 A. Correct.

17 Q. Did you receive an employee handbook during the time you
18 worked at RNnetwork?

19 A. I don't remember.

20 Q. Do you remember receiving a link to an employee handbook on
21 the portal that you would certify year after year that you've
22 received?

23 A. Yes.

24 Q. I'm going to show you what's been marked as Plaintiff's
25 Exhibit 17.

1 I'm showing you what's been marked as Plaintiff's
2 Exhibit 17. It is the June 2021 employee handbook for CHG
3 Healthcare.

4 Were you employed by RNnetwork in June of 2021?

5 A. Yes.

6 Q. Can you please turn to page 15. It is the proprietary and
7 information policy. Please let me know when you're there.

8 A. I'm there.

9 Q. Okay. So according to this policy, in the second sentence
10 it says, "employees must not remove, or use outside of the
11 scope of your employment with CHG, the following materials and
12 information, including electronic copies of same." And the
13 first bullet point says, "Names, addresses, and phone numbers
14 of CHG employees, clients, healthcare professional, and
15 potential customers." That's what it says, right?

16 A. Right.

17 Q. And did you understand that a health care professional also
18 referred to nurses?

19 A. Yes.

20 Q. And, in fact, aren't nurses also considered W-2 employees
21 of RNnetwork?

22 A. Yes.

23 Q. All right. And so knowing of this policy and the agreement
24 you signed, you still made the decision to -- I think you said
25 send your personal cell phone number to the nurses that you

1 worked with?

2 A. Yes.

3 Q. Okay. And did you obtain their personal cell phone numbers
4 and put those in your personal cell phone?

5 A. If they contacted me. And they contacted me all the time
6 because that's the fastest way they could get an answer. A lot
7 of times TextUs had issues and would freeze up or the emails
8 wouldn't come in on time. This way they could call me at the
9 middle of the night if they were having an issue and I could
10 help walk them through it, whereas no one else from RNnetwork
11 would pick up the call at 11 o'clock, 12 o'clock at night and
12 help them.

13 Q. So you are familiar with the TextUs program that was at
14 RNnetwork?

15 A. That constantly was broken, and it was only there for the
16 last three years. It never worked.

17 Q. Is that a, yes, you are familiar with the program?

18 A. Yes.

19 Q. And did you install that program on your system that you
20 used when you worked for RNnetwork?

21 A. Yes, and deleted it many times because it never worked.

22 Q. Okay. And did you -- how many nurses' personal contact
23 information did you save in your personal cell phone?

24 A. I am not sure.

25 Q. More than ten?

1 A. I don't know.

2 Q. How many nurses did you have on assignment in March of
3 2023?

4 A. 90, approximately.

5 Q. Do you have 90 nurses from RNN's personal cell --

6 A. No.

7 Q. -- phone --

8 Let me ask the question for the record.

9 Do you have the information for 90 nurses with whom
10 you worked at RNnetwork in your personal cell phone?

11 A. No.

12 Q. Do you still have contact information for any of the nurses
13 that you worked with at RNnetwork in your personal cell phone?

14 A. Yes. Some of them are even my friends. I know them
15 outside of work. They came to me as referrals. We hang out.
16 So, yes, they contact me even on a personal level.

17 MS. SCHWARTZ: I would like to move to have Exhibit 17
18 admitted into evidence.

19 THE COURT: Any objection?

20 MR. HECHT: Your Honor, this is something we haven't
21 seen before. If she wants to admit it only for that particular
22 purpose of what she just demonstrated, which is page 15, we
23 don't have an objection. But beyond that scope we would have
24 to review it first.

25 THE COURT: I'll allow it in. You know, you can ask

1 other questions that are based on the employee handbook. And
2 if any such questions come up, Mr. Hecht, just object if it's
3 something that you have an objection to.

4 (Received in evidence Plaintiff's Exhibit(s) 17.)

5 MR. HECHT: Okay.

6 BY MS. SCHWARTZ:

7 Q. So I would like to direct your attention back to Exhibit 2,
8 which is your agreement with RNnetwork.

9 A. Okay.

10 Q. And in paragraph 4(a) there is a provision entitled "Duty
11 of Confidentiality." Do you see that?

12 A. Yes.

13 Q. You agreed that you would not at any time use any of
14 RNnetwork's confidential business information for any reason
15 other than to perform your job duties for the company, right?

16 A. Correct.

17 Q. Okay. And in paragraph 4(c) you agreed that upon your
18 termination from employment with the company, regardless of the
19 manner or reason of termination, you would immediately return
20 all confidential business information and property to the
21 company and, quote, shall not retain any copies thereof,
22 whether in hard copy or electronic form. That's what you
23 promised, right?

24 A. Yes. But what if that was to make sure -- what if that
25 document was to compare to my commission report to make sure

1 that I was being paid correctly?

2 Q. You don't actually get to ask questions during the
3 proceeding. Sorry.

4 But you did retain copies of information that you had
5 obtained during your employment and didn't return it after your
6 termination, correct?

7 A. Correct. I thought they were mine.

8 Q. Okay. Now, on and after March 9, 2023, isn't it true you
9 emailed to your personal Gmail account working and awaiting
10 lists with contact information for thousands of RNnetwork
11 nurses?

12 A. My assistant compiled a report, which I had no idea how to
13 compile, by the way, and I thought it was only my nurses. The
14 only confidential information is their email. And everything
15 else on there I pretty much have memorized because of working
16 with them for so many years. And so, yes, I sent myself a
17 report that I thought was only my nurses.

18 Q. Okay. And those lists, that report is still in your
19 possession today, correct?

20 A. Correct.

21 Q. And, in fact, one of them, the working and awaiting
22 document for week ten, is on your exhibit list for this case as
23 Exhibit 5, right? It's not in front of you.

24 A. Oh, I'm not sure.

25 Q. Are you aware that you have identified the working and

1 awaiting list for week ten as one of your exhibits in this
2 case?

3 A. I'm not sure.

4 Q. Okay. Isn't it true that you began forwarding to your
5 personal Gmail account confidential business information of
6 RNnetwork on March 9 because you knew that your job was about
7 to be terminated?

8 A. No, I sent it to myself every single week since I started.
9 Well, since I started I printed it. But once I moved to
10 working from home, I had to email it to myself to be able to
11 print the document because they would not allow me to connect
12 my printer to my work computer. So I had to send it to myself
13 to print.

14 Q. Why do you think they would not allow you to attach the
15 printer to your work computer, Ms. Shafer?

16 A. It doesn't matter. They knew what I was doing, and I was
17 trained to print that report every single week and mark it off
18 and work by hand off of that. I'm a paper person.

19 Q. My question is why did RNnetwork not allow you to attach
20 your printer to your work computer, Ms. Shafer?

21 A. Because of firewalls and stuff. I don't know. Safety.

22 Q. Safety of what?

23 A. Their information.

24 Q. Right. So that you couldn't print their business
25 information off of your work computer onto --

1 A. But they told me --

2 Q. -- your home printer? You have to let me --

3 THE COURT: Wait. One at a time. This is really
4 pretty simple.

5 BY MS. SCHWARTZ:

6 Q. I'm sorry. I know it's awkward. You need to allow me to
7 ask the whole question for the record before you give your
8 answer so the reporter can take us both down.

9 A. Okay.

10 Q. You understood that RNnetwork would not allow you to
11 connect your printer to your work computer so that you wouldn't
12 be able to print its confidential information off of its
13 systems, right?

14 A. Yes. And I asked IT to allow me, and they told me that I
15 could print it the way I was printing it.

16 Q. So if I understand your testimony correctly, knowing that
17 and knowing what you agreed to in this agreement, you were
18 printing these working and awaiting lists off of the system and
19 then began emailing them to yourself when you started working
20 remotely?

21 A. Correct. So that I could print them from home from my --
22 working off of it weekly.

23 Q. I would like to show you what's already been admitted as
24 Plaintiff's Exhibit 19. It should be in front of you.

25 Actually, before we get to Exhibit 19, when did you

1 start emailing to your personal Gmail address working and
2 awaiting spreadsheets from RNN's systems?

3 A. 2016, when I went on maternity leave.

4 Q. And do you still have copies of those documents --

5 A. No.

6 Q. -- in your possession?

7 A. No.

8 Q. If you -- did you email those documents from your RNnetwork
9 email account?

10 A. Correct.

11 Q. So if we were to look in the email system for RNnetwork, is
12 it your testimony then we should be able to see you have
13 actually forwarded to yourself other working and awaiting
14 spreadsheets before March 9, 2023?

15 A. Correct. Every single week the working and awaiting and
16 the TOA reports so I could print them out.

17 Q. Do you have any explanation as to why none of those showed
18 up during RNnetwork's investigation?

19 A. Maybe you didn't know to look that far.

20 Q. Did you delete any of the emails from your sent box before
21 your last day of work?

22 A. No. Why would I have emails from 2016? Your Gmail doesn't
23 even save them that long.

24 Q. Do you currently have any printouts of any of RNnetwork's
25 data in your home possession?

1 A. No.

2 Q. Do you currently have any other working and awaiting
3 spreadsheets on your Gmail account other than the week ten and
4 week six from 2023?

5 A. No. I mean, I didn't delete it. So I should have -- I
6 sent it to my lawyer and I should have it because you said
7 don't delete it. But I don't have anything else. Whatever I
8 have, you have.

9 Q. What was your last day of work at RNnetwork?

10 A. Uhm, I think it was April 30th.

11 Q. Okay. So then why -- if you were emailing yourself those
12 working and awaiting spreadsheets every single week, why are
13 those the only two that remain in your possession that have not
14 been deleted?

15 A. Because I needed to compare those to my commission reports
16 that you guys were going to send me once I was let go to
17 compare, to see if there's any errors. And there were errors,
18 and there are still are errors, and you still owe me money.

19 Q. Okay. Let's look at Exhibit 19. This is an email that
20 your supervisor Chrissy Evans sent to you on March 9, '23, at
21 2:17 p.m. about your job performance at RNnetwork, correct?

22 A. Correct.

23 Q. Okay. Prior to this date you had been given a performance
24 improvement plan and meeting with Chrissy on a weekly basis to
25 discuss your performance, right?

1 A. I did not meet with her weekly.

2 Q. Had you been given a performance improvement plan prior to
3 March 9th?

4 A. Yes.

5 Q. Had you been given a performance improvement plan three
6 times prior March 9?

7 A. Yes.

8 Q. And what was the date of your most recent performance
9 improvement plan prior to March 9, 2023?

10 A. I don't know.

11 Q. Okay. If you look at the first sentence in Chrissy's email
12 it says, "As discussed and addressed in the performance
13 improvement plan issued on February 15, 2023, we'll be meeting
14 weekly to discuss the previous week's performance."

15 So was that last performance improvement plan issued
16 to you on February 15, 2023?

17 A. I don't recall if that date is correct, but we will assume
18 it is.

19 Q. Okay. In the second paragraph Chrissy states, quote, we
20 continue to discuss ongoing concerns with your communication
21 that do not align with our core values, end quote.

22 And on the second page of the exhibit, at the top, she
23 told you that your communication does not meet the expectations
24 established in the PIP.

25 Do you see that?

1 A. Yes.

2 Q. And then in the second to last paragraph on that page, in
3 the last sentence, she wrote, "Your communication is and has
4 been at the core of your behavioral issues and has reached a
5 point of zero tolerance."

6 And at the end says, "Lack of significant improvement
7 or any further infractions of unsatisfactory behavior and
8 ongoing deficiencies in your behavior or performance, will
9 result in further disciplinary action, up to and including
10 separation." That's what she told you, right?

11 A. Correct.

12 Q. And did you believe at this time that your job at RNnetwork
13 was in jeopardy?

14 A. I asked her if it was, and she couldn't tell me. But,
15 obviously, this is a negative writeup, and a lot of it wasn't
16 even true, and I knew that it didn't matter. Someone didn't
17 like me here. So I knew to perhaps start looking for other
18 opportunities.

19 Q. So Chrissy sent you this email at 2:17 p.m. And what time
20 did you forward it to your personal Gmail account?

21 A. Probably right away because I wanted to keep a copy and for
22 my husband to see it.

23 Q. Okay. So according to the first page of the exhibit, it
24 looks like you sent it to yourself two minutes later at
25 2:19 p.m.; is that right?

1 A. Correct.

2 Q. What is the next thing that you did?

3 A. I -- what do you mean?

4 Q. Do you recall what the next thing you emailed to your
5 personal Gmail account was on this day?

6 A. No.

7 Q. Isn't it true that about 30 minutes later you emailed to
8 your personal Gmail account the working and awaiting Excel
9 spreadsheets with thousands of nurses' information who were
10 actively on assignment?

11 A. Once again, my assistant created that document, and I can
12 only see my names on this. I sent it to myself to be able to
13 compare to my commission report knowing that this is
14 probably -- I was going to be let go soon, especially --
15 there's other issues here that you're not seeing with my
16 doctor, obviously. And I sent myself that document to be able
17 to compare for errors, which I did find and we have proof that
18 there were errors.

19 Q. I would like to direct your attention to Exhibit 13.
20 Please let me know when you have it in front of you.

21 A. I have it.

22 Q. This email was admitted into evidence as Plaintiff's
23 Exhibit 13. And what date and time did you send this email to
24 your personal Gmail account?

25 A. I have no idea. Does it say on here?

1 Q. Yes. So on the first page where it says from Rachel Shafer
2 to rachelshafer@gmail.com, it says that this working and
3 awaiting week ten spreadsheet was sent March 9 at 2:58 p.m. Do
4 you see that?

5 A. Yes.

6 Q. And that's about 30 minutes, 40 minutes after Chrissy sent
7 you the recap emails?

8 A. Correct.

9 Q. Now, I have on the screen or will the Excel document that
10 was attached to this email.

11 Okay. So if you look at the screen, we're looking at
12 the email that's Exhibit 13. And you can see -- do you see the
13 Excel attachment entitled "Team Shafer W&A" --

14 A. Yes.

15 Q. -- "week 10"?

16 A. Yes.

17 Q. Okay. Ms. Shafer, if you don't mind just waiting until I
18 ask the complete question. I'm speaking slowly for the court
19 reporter. Thank you.

20 Okay. So if we click on that attachment that you
21 forwarded to your Gmail account --

22 MS. SCHWARTZ: Can you click on it?

23 BY MS. SCHWARTZ:

24 Q. So this is the attachment you forwarded to yourself,
25 correct?

1 A. Correct. Then this is the attachment I need to compare to
2 my commission sheet.

3 Q. That's a "yes" or "no" question, Ms. Shafer.

4 All right. So you can see from this spreadsheet it
5 contains the names, the states, the email addresses for nurses,
6 the specialties that they work in, their shifts, the bill
7 rates, the gross margin, the start and end dates, and the
8 client where each nurse is placed, correct?

9 A. Correct.

10 Q. And this is for over 2,400 nurses?

11 A. Not that I was aware of. I thought it was only mine.

12 Q. Okay. So if we scroll to the bottom of the page --

13 A. No one ever taught me how to see it and --

14 Q. There is no question pending.

15 THE COURT: Wait. You all changed the page.

16 MR. HECHT: Your Honor, I would just like to point
17 out on the record --

18 THE COURT: Hang on. You all just changed the page.

19 MS. SCHWARTZ: We're scrolling to the bottom.

20 THE COURT: No, no. The one you showed was not in
21 order from one through whatever thousand. The numbers were not
22 in order.

23 MS. SCHWARTZ: Oh.

24 THE COURT: Go back to what was on the screen, which
25 is what you asked her the question about. You see how it

1 started; 7, 33, 4? So you asked her questions based on a much
2 shorter attachment, and then your next question you switched it
3 to the one that has 2,400.

4 MS. SCHWARTZ: So I should explain, Your Honor. So
5 this is the same document. It's the same Excel spreadsheet.
6 When you first open the spreadsheet, you have to expand all of
7 the columns.

8 THE COURT: I understand that. You can't ask her a
9 question and show her that, though, when the real document is
10 the 2,451.

11 MS. SCHWARTZ: Okay. So I will rephrase the question.

12 THE COURT: Okay.

13 BY MS. SCHWARTZ:

14 Q. So in front of you is the Excel spreadsheet that was
15 attached to the March 9, 2023, email in its non-expanded form.

16 When you click to expand all of the information on
17 this document and you scroll to the bottom of it, you can see
18 that there's contact information here for more than 2,000
19 nurses, correct?

20 A. Right.

21 MR. HECHT: Your Honor, I would like to point out an
22 objection, and I would ask opposing counsel to clarify to the
23 Court exactly what she did to get from the shorter list to the
24 longer list. She did some clicks with a button but, obviously,
25 something is happening here that's changing the list from a

1 smaller to a bigger one, and I would ask her to clarify exactly
2 what she's doing.

3 THE COURT: So that she doesn't have to do, but you
4 can handle it on cross.

5 MS. SCHWARTZ: And just for the record, we did it all
6 on the screen by clicking the "Clear" filter.

7 THE COURT: Okay, guys. You know, I just said that
8 she doesn't have to do, but you can handle it on cross. That
9 means move onto your next question.

10 MS. SCHWARTZ: Okay.

11 BY MS. SCHWARTZ:

12 Q. Ms. Shafer, isn't it true that there are nurses that appear
13 on this list that are not nurses that you placed at RNnetwork?

14 A. Can you repeat that?

15 Q. Isn't it true that there are nurses appearing on this Excel
16 spreadsheet that you emailed to yourself who are not nurses for
17 whom you were the recruiter at RNnetwork?

18 A. Now that you show me, yes. But did I know that? No.

19 Q. Is it your testimony that after 17 years of working in
20 nurse recruiting you never learned how to use an Excel
21 spreadsheet?

22 A. No, I know how to -- actually, I'm very bad on Excel, and I
23 had two assistants, not one, two, that would do things like
24 that for me. I am an expert in recruiting, not Excel or typing
25 of resumes.

1 Q. Now that you see the list expanded in front of you, isn't
2 it true that this is a list of all of the nurses who were
3 working and scheduled to work as of March 2023, including those
4 placed by other recruiters?

5 A. It looks like it.

6 Q. So, for example, the first recruiter who appears -- the
7 first nurse who appears on the screen is Katina King.

8 A. I can't see that.

9 Q. We're going to scroll up in a moment.

10 A. But even from memory I know whose nurse that is. That's
11 how I have it memorized.

12 Q. So you did not place Katina King at Orlando Health Regional
13 Center?

14 A. No. Michelle Fuger does. She's a very well known name in
15 the nursing industry.

16 Q. Isn't it true that every month you would receive a
17 commissions report from RNnetwork?

18 A. Yes.

19 Q. Okay. So why then did you send yourself a working and
20 awaiting spreadsheet --

21 A. Because they --

22 Q. -- on March 9th?

23 A. Because they would omit names all the time. It was
24 incorrect. And that's how I was able to check off all the
25 names and the start and end dates. And as you can see, I have

1 to be very meticulous because I don't have five nurses. I have
2 90 nurses.

3 Q. Why have you refused to return this information to
4 RNnetwork ever since they sent you a cease and desist letter?

5 A. I didn't know what they were talking about, and I thought
6 this was my information. Again, because they owe me money and
7 I still have to compare to the commissions that they owe me.

8 Q. Did you take this information to help you place nurses at a
9 different company, like AHS, after your employment with
10 RNnetwork terminated?

11 A. I did not, nor do I need to. Because again, I'm one of the
12 top recruiters in the country. I don't even need leads. I get
13 referrals. Most -- 90 percent of my lead source is referrals.

14 Q. How many nurses did you place during your employment at
15 AHS?

16 A. A total of 15.

17 Q. And did you work with all of those nurses at RNnetwork?

18 A. No.

19 Q. Did you work with any of them at RNnetwork?

20 A. Some, but they worked many, many years ago.

21 Q. So going back to Exhibit 13, the spreadsheet in front of
22 you. Can you find this document anywhere on the Internet?

23 A. No.

24 Q. How long would it take you to recreate this document if you
25 had nothing other than the Internet and/or a phone book?

1 A. I don't really need to recreate it, but I could because I
2 have it all memorized. If I had their names, I can tell you
3 what unit they are on, what shift they like, their -- how many
4 kids they have. You know, I build relationships and I remember
5 this stuff.

6 Q. But you just testified that there are thousands of nurses
7 on this spreadsheet with whom you never even worked. You don't
8 know their information, right?

9 A. No, I don't. Just mine.

10 Q. So how long would it take you to recreate a document like
11 this from publically available sources?

12 A. It's not possible.

13 Q. Could you find information in the public realm about what
14 compensation a nurse prefers or requires?

15 A. Yes, just ask them easily. And they can send me a contract
16 or when they can send me their resume, I would know everywhere
17 that they worked at.

18 Q. Right. You would have to speak with them to find that out,
19 correct?

20 A. Or it's on their LinkedIn or Facebook.

21 Q. Is it your testimony that nurses put the compensation they
22 require on their LinkedIn page?

23 A. No, but a lot of times they'll write it on Facebook and in
24 those forums, the nursing forums.

25 Q. And where -- is there anywhere in the public realm that you

1 could find information about whether certain nurses require
2 housing?

3 A. 95 percent of nurses use housing allowance. It's very rare
4 for a nurse to use housing because they lose out on
5 compensation. So unless they're in a dire need, they are going
6 to take housing allowance. And that's irrelevant because it
7 doesn't matter. It can change from assignment to assignment.

8 Q. Okay. But you agree, you would have to actually talk to
9 these nurses to find out what pay they want, what shifts they
10 want, and what housing they want, correct?

11 A. It's posted on Facebook a lot of times too, exactly what
12 they're looking for.

13 Q. What is the next thing that you did after you emailed this
14 spreadsheet to your personal Gmail account on March 9th?

15 A. I don't know. You would have to tell me. I don't have --

16 Q. Is that when you began to look for jobs at other nurse
17 staffing agencies?

18 A. No, but I was interested in the top agency, which RNnetwork
19 blocked me from working with, and I sent myself a link to check
20 it out at home.

21 Q. So I would like to direct your attention to what's been
22 admitted into evidence as Exhibit 15. Let me know when you
23 have it in front of you.

24 A. I have it.

25 Q. Okay. What is this link that you sent to yourself at

1 4:28 p.m. on March 9th, 2023?

2 A. The biggest nurse recruiting agency there is, and I sent
3 myself a link at 4:30 p.m. to check out after work hours.

4 Q. So Aya Healthcare is another nurse staffing company; is
5 that right?

6 A. The biggest one.

7 Q. Isn't it true Aya Healthcare also places other types of
8 positions, not just nurses?

9 A. Correct.

10 Q. But when you sent this link to yourself, you were looking
11 for nurse recruiter jobs, correct?

12 A. I didn't know what I was looking for yet. I was connecting
13 myself to Aya to look at what was available.

14 Q. Okay. Now, you sent this email to your -- link to Aya
15 Healthcare jobs at 4:28 p.m. That's just about 90 minutes
16 after you sent the working and awaiting Excel spreadsheets that
17 we just looked at as Exhibit 13, right?

18 A. Right.

19 Q. Okay. And 4:28 p.m., that's the middle of your workday for
20 RNnetwork, correct?

21 A. I can email myself at work.

22 Q. I'm sorry?

23 A. I can email myself at work.

24 Q. Did you apply for any jobs at Aya Healthcare?

25 A. No, not at this time. Maybe like a month later or a few

1 weeks later.

2 Q. And what job did you apply for?

3 A. Uhm, I don't know. Several. So I don't know exactly. I
4 applied for a lot of jobs recently.

5 Q. Did you apply for a nurse recruiting job at Aya Healthcare?

6 A. Yes.

7 Q. Why did you apply for a nurse recruiting job at Aya
8 Healthcare?

9 A. Because I needed work and they had the most jobs and they
10 have the most recruiters and the industry right now is very
11 difficult. So they have -- I can make the most money with
12 them.

13 Q. As a nurse recruiter?

14 A. Correct.

15 Q. Did you forward any other documents or links to your
16 personal email address on that date?

17 A. Maybe the travelers on assignments that I had. That's the
18 only other thing I can recall. But that -- all that document
19 has is the recruiter's name and how many nurses they have
20 working for that eight weeks.

21 Q. So I would like to show you what's been marked as
22 Plaintiff's Exhibit 20.

23 This is an email that you sent to yourself from your
24 RNnetwork account to your personal Gmail account on March 9 at
25 7:22 p.m., correct?

1 A. Correct. It's an older version of my resume that I was
2 going to tweak.

3 Q. Were you tweaking your resume on March 9 because you were
4 about to begin looking for new jobs as a nurse recruiter at
5 another company?

6 A. Yes.

7 Q. Okay. Even though you signed a one-year noncompete
8 agreement with RNnetwork, it was still your intention to go
9 work for a competitor in nurse recruiting anyway?

10 A. To my knowledge, noncompetes don't mean anything in
11 Florida.

12 Q. But you knew that you signed the agreement, right?

13 A. Correct.

14 Q. And so you were just disregarding it?

15 A. And I had other coworkers that RNnetwork didn't go after
16 that went straight from one agency to another.

17 Q. If we turn to the second page of the exhibit of your
18 resume. In the very first paragraph, the second sentence, you
19 wrote, "I go above and beyond for my nurses as I appreciate all
20 that they do. Being a nurse helps me to connect with my
21 clients on a different level than most recruiters can." Is
22 this the resume that you sent to Aya Healthcare?

23 A. No.

24 Q. What's different about this resume from the one you sent to
25 Aya Healthcare?

1 A. I changed that first -- I changed that first sentence. I
2 changed -- I changed a few things on this resume. I --

3 Q. Do you see where you wrote "Over 100 TOA Currently
4 March 2023"?

5 A. Uh-huh.

6 Q. What does that mean?

7 A. That I have -- I had 90 to 100 nurses working for me in
8 March 2023. I had to change that, you know, to be more
9 correct. And then I had 185, that's 100 percent correct, at
10 the peak of the industry in 2022.

11 Q. Okay. And is that the information that you included on
12 your resume to Aya Locum --

13 A. Yes.

14 Q. -- or Aya Healthcare?

15 You also wrote in this resume that you brought over
16 \$6.6 million in profit for 2023 to RNnetwork; is that true?

17 A. Yes.

18 MR. HECHT: Your Honor, objection to this line of
19 questioning as to relevance.

20 THE COURT: Well, yes. I guess, tell me where you're
21 going with this. I mean, it seems like we're going over facts
22 that are in evidence.

23 BY MS. SCHWARTZ:

24 Q. Basically, you were updating your resume for the purpose of
25 finding another job in nurse recruiting in violation of your

1 noncompete, correct?

2 A. Correct.

3 Q. Now, the working and awaiting spreadsheet that you emailed
4 yourself March 9, which was updated as of March 2023, was that
5 missing information for any nurses who may have fallen off that
6 chart from the prior month? Strike that. Let me ask this way.

7 On the morning of March 10, 2023, did you go back into
8 RNnetwork's systems to forward to your personal Gmail account
9 the working and awaiting spreadsheet for work six?

10 A. Yes, because they do fall off because the nurses work 13
11 weeks. So I need to capture a bigger picture to make sure that
12 my commissions were correct.

13 Q. And is that why you forwarded the week six email with the
14 Excel spreadsheet of 2,000 nurses to yourself on March 10?

15 A. Again, I didn't know that it was 2,000 nurses. I thought
16 what my assistant sent me was just mine.

17 Q. I would like to turn your attention to Exhibit 11. Is this
18 an email that you sent to yourself at RNnetwork with a link to
19 the company's noncompete and non-solicit process on March 28,
20 2023?

21 A. Yes, but I was working fast and just typed in noncompete,
22 and this came through. And I just sent it to myself without
23 reading it.

24 Q. So why did you send this to yourself?

25 A. Because I wanted to have a copy of our noncompete.

1 Q. Why did you want that?

2 A. I wanted to send it to my lawyer, and I wanted to see what
3 was in it in specific because I hadn't seen it in a while.

4 Q. But on the date that you sent this email to yourself, you
5 were still an active employee of RNnetwork, correct?

6 A. Correct. But you had written me up. And also I asked for
7 accommodations that I was denied for and basically told too
8 bad, so sad. Even if you got paperwork filled out by your
9 doctor, nothing's going to change. I knew things were coming
10 to an end.

11 Q. But you didn't have any paperwork filled out by your
12 doctor, did you?

13 A. I did not. I just spoke to him. And she said even if I --
14 HR, Briles, said that even if I did speak to my doctor and fill
15 it out, it would mean nothing. So I spent \$300 making an
16 appointment with my psychiatrist to get nowhere.

17 Q. So your employment with RNnetwork terminated by March 30th
18 of 2023, correct?

19 A. Correct.

20 Q. And on that date were you sent a letter by email with a
21 copy of your employment agreement reminding you of your
22 noncompete, non-solicit, and confidentiality obligations?

23 A. Yes. But again, I was told that it doesn't mean anything
24 in Florida, the noncompete, and my coworkers went to other
25 agencies to work and nothing happen to them.

1 Q. Who told you that the noncompete doesn't mean anything in
2 Florida?

3 A. Many people have.

4 MR. HECHT: Objection, Your Honor. If she's asking
5 for any communications with her attorney, we assert an
6 attorney-client privilege.

7 THE COURT: Sure. So I'll just let the answer stand
8 when she said many people, but I'll sustain as to any
9 discussions that she may have had with you or any other lawyer.

10 BY MS. SCHWARTZ:

11 Q. So I would like you to take a look at Exhibit 5 in front of
12 you.

13 A. Okay.

14 Q. Is this the email that you were sent by Keela Briles on
15 March 30 after your employment was terminated?

16 A. Yes.

17 Q. Did it have a number of attachments included --

18 A. Yes.

19 Q. -- on the email?

20 And was one of the attachments the employment
21 agreement that you signed?

22 A. Yes.

23 Q. Did you read it?

24 A. Uhm, I skimmed through it.

25 Q. Okay. After you received this letter from Ms. Briles

1 reminding you of your obligations under the employment
2 agreement --

3 MR. HECHT: One second, Your Honor. Just an objection
4 here. I notice you said an email. You just gave us two
5 documents. But you're referring that there were other
6 attachments to this email that's not included in these two
7 documents?

8 MS. SCHWARTZ: It's referenced on the subject line.

9 MR. HECHT: But it's not part of the exhibit you
10 introduced, is it?

11 MS. SCHWARTZ: This exhibit's already been admitted
12 into evidence.

13 MR. HECHT: But now you're mentioning that there is
14 some additional attachments to it that's not included here, and
15 you're asking the witness about those attachments. So I'm
16 entitled to know -- if there is something else to it and we
17 didn't get it, we want to know what it is.

18 MS. SCHWARTZ: Well, if you'll look at the first page
19 of the exhibit, it expressly says, next to the word
20 "Attachments," Noncompete, Offboarding Resources, What Happens
21 to My Benefits When I Leave CHG.pdf," and Ms. Shafer has
22 personal knowledge of what was attached, which she is
23 testifying to.

24 THE COURT: So is there a pending question?

25 MS. SCHWARTZ: Yes, I was asking the question when he

1 suddenly objected to the use of the admitted exhibit.

2 MR. HECHT: Your Honor, we're objecting that she's
3 asking her about attachments to these documents and there is no
4 attachment here. And the way it was introduced into evidence
5 is without any attachments. And now she is mentioning there
6 are additional documents here that we don't see and we didn't
7 get any copy of.

8 THE COURT: Well, when you say we didn't get any copy
9 of it, didn't we go over all of this a week ago, each of these
10 documents?

11 MR. HECHT: No, but this is something that she already
12 admitted into evidence. But she admitted two pages into
13 evidence. But now she's saying that in addition to these two
14 pages there are additional exhibits, and she's asking
15 Ms. Shafer about those exhibits, and we don't see it here.

16 MS. SCHWARTZ: The question was did you read the
17 employment agreement that's already been admitted as Exhibit 2,
18 which she testified was attached to the email.

19 THE COURT: Sure. So listen, I mean, I think we
20 should all kind of continue to move forward, continue to narrow
21 the issues. In all candor, I don't know what the relevance of
22 the employment agreement is anymore based on the answer that
23 covenants not to compete don't mean anything in Florida. So
24 what does it matter?

25 MS. SCHWARTZ: Well, what does -- sorry. What does

1 what matter, Your Honor? The fact that she violated the
2 noncompete because she said covenants don't --

3 THE COURT: She agrees she signed the document. She
4 agrees it has a covenant not to compete in it, and she says
5 that she was told it doesn't mean anything. Why now try to go
6 around and try to show her the words in something she agrees
7 she signed and that she says she didn't follow?

8 MS. SCHWARTZ: Because I was also addressing the
9 misappropriation of trade secrets and the violation of the
10 non-solicitation provision in the agreement, Your Honor.

11 THE COURT: I think go to that then. Just ask her
12 about that.

13 BY MS. SCHWARTZ:

14 Q. Okay. After you received this letter from Ms. Briles, why
15 did you not then return any of the information that belonged to
16 RNnetwork?

17 A. I didn't know that it belonged to RNnetwork. I returned
18 the computer and everything right away. Actually, they didn't
19 ask me for it, and I kept asking them to send me the box to
20 send back all their stuff. Because they didn't send anything
21 to me for weeks. And I didn't realize what I sent myself was
22 illegal to send and that would cause issues. I thought it was
23 for me to compare to my commission report, the end. Not to
24 recruit, not to do anything negative.

25 Q. After you received this letter from Ms. Briles, did you

1 take any steps to delete any information from your cell phone
2 or your Gmail account pertaining to nurse contact information?

3 A. No. No.

4 Q. And why did you retain nurse contact information in your
5 cell phone when you knew that information was considered
6 confidential and proprietary to RNnetwork?

7 A. You guys told me -- first of all, you told me not to delete
8 anything. Second of all, nurses contact me on their own daily
9 on my cell phone that's blasted all over the Internet,
10 Facebook, LinkedIn, through other nurses. Again, I get
11 90 percent of referrals. I'm not working right now and people
12 are contacting me to place them. I don't need leads in a
13 database. I don't need paid leads. I'm that high up in the
14 industry where referrals come to me, free referrals, and that's
15 how I place most of my nurses.

16 Q. In that case, do you have any problem returning and
17 deleting the spreadsheets from RNnetwork that you forwarded to
18 your personal email account?

19 A. Not at all.

20 Q. And in that case, do you have any problem deleting and
21 wiping from your personal cell phone and your email account all
22 contact information for the nurses with whom you worked at
23 RNnetwork?

24 A. I don't know who it is, who I worked with, who I didn't
25 work with. And what if I worked with them ten years ago?

1 There's no way to -- as you can see, I texted someone that I
2 thought was a nurse. I don't have -- what, do you want me to
3 wipe out every contact in my cell phone?

4 Q. Is it your intention to continue soliciting the nurses with
5 whom you worked at RNnetwork if you find another job as a nurse
6 recruiter in the next 12 months?

7 A. I never solicited anyone. Again, they come to me.

8 Q. The test message that you were referring to -- let me just
9 show it to you. Let me show you what I'm having marked as
10 Plaintiff's Exhibit 16.

11 Do you recognize this email that you sent between your
12 personal Gmail account and your RNnetwork account on March 15
13 regarding JR Borges?

14 A. Yes. So she -- we were probably texting, and I emailed
15 myself this note to put in the system, for RNnetwork system, so
16 we knew where we were with this nurse.

17 Q. What is JR Borges' name?

18 A. I forget. Maybe Judith.

19 Q. Is this an email or a text message from this nurse that you
20 were forwarding to your email account?

21 A. It looks like it would be a text message and that I was
22 sending it to RNnetwork to put into their system so they had a
23 copy of it.

24 Q. And did you also upload a copy of JR Borges' information
25 into AHS's system?

1 A. No.

2 Q. Did you upload information for any nurses into AHS's
3 system?

4 A. No.

5 Q. Really? Not even Jordan Newstadt? You didn't upload his
6 information into AHS's system?

7 A. If they contacted me and wanted to work with us, then I
8 would have. But again, Jordan hasn't work with RNnetwork for
9 about seven or eight years.

10 Q. My question was did you upload nurse contact information
11 for any of the nurses that you worked with at RNnetwork into
12 AHS's system?

13 A. If they came in as a lead and wanted to work with me, yes.
14 And if they weren't in the system already, yes.

15 Q. Where would you upload that information in AHS's system?

16 A. Just as a new candidate or I would update if they were
17 already in the system.

18 Q. So if you logged onto the system, what application would
19 you click on to upload that information?

20 A. They have their own system. I think it's called Insight.

21 Q. Okay. And where on the Insight system would you enter the
22 information for the RNnetwork nurses?

23 A. Any nurse would just be entered as a new candidate.

24 Q. And would your name be attached to that nurse in their
25 system?

1 A. It could be. It could not be. If someone took over, it's
2 probably not going to be in my name anymore.

3 Q. When you first put the information in the system, was it
4 attached to your name?

5 A. Yes, it would be attached.

6 Q. Do you still have this nurse Judy Borges' information in
7 your cell phone --

8 A. I don't know.

9 Q. -- or in your Gmail account?

10 A. I don't know. I would have to -- it's not in my Gmail.
11 It's -- I'm sending myself her updated email and note for
12 RNnetwork system to update their system.

13 Q. So if you look at Exhibit 16, in the second email, it's
14 from rachel.shafer@gmail.com. Do you see that?

15 A. Correct. So what happened was the nurse texted me on my
16 personal cell phone and I copied it from my Gmail to RNnetwork.

17 Q. And did you delete the email from your Gmail account?

18 A. Yes.

19 Q. Why did you do that?

20 A. My Gmail automatically deletes like every certain amount of
21 days. But if it's -- I don't know. If it's March, if it's
22 recent, it might still be there.

23 Q. What do you mean your Gmail automatically deletes every so
24 many days?

25 A. Just like every other email account, it clears your trash

1 every 30 days.

2 Q. Okay. But does it clear the emails that are not sent into
3 the trash bin?

4 A. No.

5 MS. SCHWARTZ: I would like to move to have Exhibit 16
6 admitted into evidence.

7 THE COURT: Any objection?

8 MR. HECHT: Same. Same what we were referring to last
9 week, the notice issue. Last week Your Honor said that
10 whenever you want to raise the notice issue, that we haven't
11 seen this before, we should just say "same."

12 THE COURT: Right. But then when we closed business
13 on the 31st and moved the case to the 7th, I said does that in
14 effect waive your notice objection, and you said yes.

15 MR. HECHT: So, yeah, let me withdraw the objection.
16 Sorry.

17 THE COURT: Okay. So 16 will come into evidence.

18 (Received in evidence Plaintiff's Exhibit(s) 16.)

19 BY MS. SCHWARTZ:

20 Q. Showing you what I've had marked as Plaintiff's Exhibit 18.
21 Exhibit 18 appears to be a screenshot that you took of a text
22 message from a nurse that you emailed from your personal Gmail
23 account to your RNnetwork email on March 12th; is that right?

24 A. Yes.

25 Q. Why --

1 A. Why do I do that?

2 Q. Why were you not using the TextUs software designed so that
3 these messages would automatically be saved in Bullhorn and not
4 your personal cell phone?

5 A. Because TextUs never worked for me and it wasn't reliable.
6 And if it did work, it was a big lag. And this girl is a
7 friend. It's -- not just a nurse. And I have issues sending
8 pictures on my phone from Outlook. So I send it -- I send
9 myself things from my cell phone to my Gmail to RNnetwork to
10 have a copy and proof of what the nurse has said to be put into
11 RNnetwork's system.

12 Q. Do you have Natalie Turner's contact information in your
13 cell phone right now?

14 A. Uhm, yes.

15 Q. Did you upload it into AHS's system?

16 A. Uhm, she -- yes. She wanted to work with AHS, but I didn't
17 end up placing her.

18 Q. So you did upload her information --

19 A. Correct.

20 Q. -- into AHS's system?

21 A. Correct.

22 Q. Did you provide her with an offer of employment agreement
23 like the one that we saw earlier for Amanda Fobar?

24 A. I don't remember.

25 MS. SCHWARTZ: Okay. I would like to move to have

1 Exhibit 18 admitted into evidence.

2 THE COURT: Any objection?

3 MR. HECHT: No.

4 THE COURT: 18 will come into evidence.

5 (Received in evidence Plaintiff's Exhibit(s) 18.)

6 BY MS. SCHWARTZ:

7 Q. Isn't it true that during your employment at AHS you
8 contacted nurses whose information appeared in the working and
9 awaiting spreadsheets that you took to see if they would be
10 interested in the working with you at AHS?

11 A. I don't recall.

12 Q. I want to direct your attention back to Plaintiff's
13 Exhibit 10, which is in front of you.

14 Amanda Fobar is a nurse that you worked with during
15 your employment at RNnetwork, correct? That's a "yes" or "no"
16 question.

17 A. Yes, but she went by Mandy, M-A-N-D-Y, and so I didn't
18 connect the dots until -- I can tell you the whole story.

19 Q. Okay. But my question is you worked with her at RNnetwork,
20 right?

21 A. Yes.

22 Q. And she was actively on an assignment with RNnetwork in
23 March of 2023 when you forwarded the week ten working and
24 awaiting spreadsheets to your personal email account, right?

25 A. I guess so.

1 MS. SCHWARTZ: Okay. If we can just put Exhibit 13
2 back on the screen, line 872.

3 THE WITNESS: May I speak?

4 BY MS. SCHWARTZ:

5 Q. There's no question pending.

6 So here we see Amanda Fobar was placed on assignment
7 at Highlands Hospital in California from January 4, 2023,
8 through April 22, 2023, by you, right?

9 A. Yes.

10 Q. And when you sent this spreadsheet to yourself on March 9,
11 you were able to see that one month later, in April, Amanda was
12 going to be ready for a new placement, correct?

13 A. I wasn't using --

14 Q. You could see that, correct?

15 A. I didn't look at it for that reason.

16 Q. But you can see it is my point.

17 A. If I looked, yes.

18 Q. And you could also tell from this spreadsheet that Amanda's
19 specialty was in RN babies postpartum nurse and that she works
20 12-hour days, meaning dayshifts, right?

21 A. Amanda has five specialities and will be flexible to any
22 shift.

23 Q. Okay. But you can see from the spreadsheet the information
24 I just told you, right?

25 A. Yes.

1 Q. And you also have on this spreadsheet Amanda's personal
2 Gmail address, correct?

3 A. Correct.

4 Q. And you can tell how much money she was being paid from the
5 bill rate and the gross margin, correct?

6 A. Which doesn't matter.

7 Q. But you can see that on the spreadsheet, right?

8 A. Yes, and I'm the one who created that.

9 Q. As we can see from Exhibit 10, one of the first nurses you
10 tried to bring over from RNnetwork to AHS was Amanda Fobar in
11 California, correct?

12 A. False.

13 Q. Was she one of the second nurses you tried to bring over?

14 A. False. And she contacted me. And she had -- on her resume
15 she had three places that she was actively working. So I
16 didn't even realize that she was working with RNnetwork until
17 she said something when I got her an offer. And then when she
18 told me who she was working with, her recruiter, I had her take
19 this exact offer through RNnetwork. That's the kind of person
20 I am.

21 Q. Just to make sure I understood your testimony, though, you
22 did try to make a placement for Amanda at AHS Staffing, right?

23 A. Correct.

24 Q. Okay. So I want to direct your attention to Plaintiff's
25 Exhibit 23, which is in front of you. Just let me know when

1 you have it.

2 A. I have it.

3 Q. Okay. So if you can please turn to the last page of the
4 exhibit. It's the text message dated June 23, 2023.

5 A. Uh-huh.

6 Q. You sent this text message to Emily asking if she is still
7 travel nursing and stating you would love to work with her
8 again, right?

9 A. Correct.

10 Q. And you also texted her that you are currently at AHS
11 Staffing in this message, right?

12 A. Correct.

13 Q. When you did not hear back from Emily, you then sent her
14 this second message on August 17th, 2023, stating, "Hi are you
15 still travel nursing? I would love to work with you! I have
16 17 years of experience," and again left your full name and that
17 you are at AHS, right?

18 A. Right.

19 Q. And then when you still did not hear back from Emily, on
20 the second page of the exhibit you sent her this third text
21 message stating, "Hi Emily, after 17 years I switched
22 companies. Are you still travel nursing?" And you left your
23 name, but this time you also left your cell phone and your AHS
24 Staffing email address, correct?

25 A. That's my -- that's not my cell phone. It was my work

1 number.

2 Q. Okay. This chain of test messages is pretty indicative of
3 the way you went and sought out business for AHS, correct?

4 A. This is how I -- I'm a texter. I don't call. I text and
5 email. So, yes, this is how I look for nurses. And I guess
6 Emily must have been covering as my assistant for a little bit,
7 and I forgot and I had her in my cell phone. So I was going
8 through referrals and texted her. I thought she was a nurse.

9 Q. So these test messages saying that you switched companies
10 and you're at AHS, this is the type of text message that you
11 were sending out through your cell phone to nurses that you
12 worked with at RNnetwork?

13 A. No. Every nurse. Because again, my name is very well
14 known in the industry. My cell phone is all over Facebook,
15 LinkedIn, everywhere. So people ask me even now what company
16 you're with. People follow me. So I was letting them know the
17 company that I'm with now.

18 Q. Okay. So it is your testimony that you would send these
19 test messages to every nurse, the ones you worked with at RNN
20 and ones that may not have worked with you at RNN; is that your
21 testimony?

22 A. I -- if I -- if they worked with me at RNnetwork recently,
23 I didn't send it to them. When I left the company, yes, I did
24 tell people that I am no longer with RNnetwork. And if they
25 asked me where I was, I let them know. But, yeah, I'm going to

1 tell people where I'm working so they can contact me and
2 research the company to come on board.

3 Q. So you kept texting Emily month after month even though she
4 never responded.

5 A. Isn't that how you recruit?

6 Q. I didn't ask the question. My question is you kept texting
7 her month after month even though she never responded. Is that
8 because you know that travel nurse assignments only last 12
9 weeks at a time?

10 A. Correct. And you have to keep calling, texting, emailing.
11 And that's how you eventually get to them.

12 Q. Okay. And do you have a record in your cell phone of all
13 the text messages you sent when you joined AHS just like this
14 one?

15 A. Uhm, no. AHS actually -- their text messaging system
16 worked really well. So I texted a lot through their computer
17 system. So they should have a record, yes, of my text
18 messages.

19 Q. And did you use your personal cell phone to --

20 A. Yes.

21 Q. -- exchange text messages?

22 A. Yes, I do. My personal cell phone is my bread and butter.
23 People reach out to me on it all the time for work.

24 Q. And do you -- did you preserve those text messages in your
25 cell phone?

1 A. Yes.

2 Q. So you still have them there today?

3 A. Yes.

4 Q. How much money did AHS make in gross margin from your
5 placements there?

6 A. I have no idea.

7 Q. How much money in commissions did you make at AHS?

8 A. It's the -- they had a deal with me of -- a financial deal
9 where it had nothing to do with how many nurses I had for
10 six months.

11 Q. And what was that deal?

12 A. Uhm, I had a base salary of 50,000, and they gave me 3,000
13 in commission per month to bridge what I was -- you know, to
14 get me closer to the RNnetwork pay. And then they would give
15 me a \$10,000 bonus for ten nurses, another \$10,000 bonus for 20
16 nurses, another \$10,000 bonus for 30 nurses. This is nothing
17 compared to what I was making with RNnetwork because of the
18 amount of years I worked for them, and they're basically making
19 me start from scratch financially.

20 Q. When you were uploading information about RNnetwork's
21 nurses into AHS's system, did you upload the working and
22 awaiting spreadsheets to their system or just information about
23 each individual?

24 A. If I added an individual, it was -- they contacted me and I
25 was adding them as their name and whatever information they

1 gave me. I did nothing -- I did not upload anything like a
2 working and awaiting.

3 Q. Did you save information about submissions in a different
4 place on AHS's system than where you saved the actual
5 placements? In other words --

6 A. Oh. Did they have like a different file?

7 Q. Yes.

8 A. Yes.

9 Q. Where did you save information that you uploaded about the
10 nurses you submitted for assignments in AHS's system?

11 A. Uhm, it just automatically saves. And you can talk to
12 AHS's law firm because they wouldn't give my lawyer a copy of
13 it.

14 Q. Did you see the memo that Keela Briles drafted regarding
15 the conversation she had with an AHS employee about you?

16 A. I -- I listened to it, yes.

17 Q. Did you have 80 nurses submitted during your employment
18 with AHS Staffing?

19 A. No. And she was saying -- and if I recall, they were
20 saying 80 a week.

21 Q. Were you given a company cell phone or computer at AHS?

22 A. A computer.

23 Q. Do you still have that computer?

24 A. Yes.

25 Q. You have not returned it to AHS?

1 A. They haven't sent me a box. I've asked them.

2 Q. Okay. You made President's Club at RNnetwork in 2022,
3 correct?

4 A. Yes, many years.

5 Q. And what did you have to do for that?

6 A. Excuse me?

7 Q. What did you have to do to make President's Club?

8 A. It changes every year, but I don't remember exactly. Maybe
9 2.5 million. I don't remember. You would have to ask someone
10 at RNnetwork. It changes yearly.

11 Q. Okay. And I think your lawyer represented you made over
12 \$615,000 in 2022 at RNnetwork; is that right?

13 A. Correct.

14 Q. Okay. And you testified you were one of the company's top
15 producers, third in the country, correct?

16 A. I didn't say third in the country. I was between one and
17 three top recruited in like the last ten years. But while
18 leaving, I was number three.

19 Q. And isn't it true that you accomplished all of that using
20 the information that's residing in the working and awaiting
21 spreadsheets you sent to yourself?

22 A. No. That I became a top recruiter from the working and
23 awaiting list?

24 Q. No. Isn't it true that the information contained in those
25 spreadsheets is information you used to become one of the top

1 recruiters in the company?

2 A. No.

3 Q. In those working and awaiting spreadsheet is at least a
4 hundred of the nurses' information that you had on assignment
5 in March of 2023, right?

6 A. Yes.

7 Q. Okay. So isn't that information that led to you being so
8 successful at RNnetwork?

9 A. No. The success is me, my expertise and my referrals, my
10 relationship building, okay? Maybe what helps me is the jobs
11 that RNnetwork has so that I can bring these nurses into those
12 jobs. But I taught myself. I got two weeks of training back
13 in 2006. I taught myself through sweat, tears, many hours,
14 working Saturdays, Googling information, speaking to other
15 recruiters, making forums with other recruiters, collaborating.
16 I'm the only recruiter at RNnetwork that trains other people to
17 become recruiters that are assistants.

18 Q. Okay. And just to be clear, the only place you ever worked
19 as a nurse recruiter prior to AHS was RNnetwork, right?

20 A. Correct.

21 Q. So everything you learned over the course of your 17 years
22 there you learned during your employment at RNnetwork?

23 A. With trial and error.

24 Q. Okay. Now, you testified earlier that AHS Staffing does
25 travel nurse staffing, the same thing RNnetwork does, right?

1 A. Yes.

2 Q. Okay. They're direct competitors, correct?

3 A. Yes, except for they place a few more specialties than
4 RNnetwork does.

5 Q. What are the other specialties that AHS places?

6 A. Oh, like technologists, medical assistants. You know,
7 different parts of the medical field. They don't just place
8 nurses.

9 Q. So why didn't you apply to work in a position staffing
10 something other than nurses?

11 A. I placed medical assistants too. I could do whatever I
12 wanted --

13 Q. Okay.

14 A. -- going in.

15 Q. So you have experience placing medical assistants?

16 A. Correct.

17 Q. And that's not something you did at RNnetwork, correct?

18 A. Correct. It's the same thing as placing a nurse, just less
19 money and smaller margins.

20 Q. So that's another type of job that you can perform while
21 complying with your obligations in your agreement with
22 RNnetwork, right?

23 A. No. My agreement with RNnetwork, especially the one that
24 you sent, basically -- the paperwork you sent after I was fired
25 said I couldn't work anywhere in health care at all.

1 Q. Well, we'll look at that in a moment. But when did you
2 apply for the position at AHS?

3 A. Uhm, I applied there a couple weeks before I was hired, so
4 I want to say beginning to mid May.

5 Q. Did you fill out an application?

6 A. No. They were given my name as a referral.

7 Q. Who gave them your name as a referral?

8 A. Dana Haley, but I also knew a couple of people that worked
9 there.

10 Q. Okay. So it is your testimony that AHS reached out to you
11 about a job?

12 A. No. Well, I don't know if you consider an employee of AHS.

13 Q. Where did you work for AHS?

14 A. Where?

15 Q. Yes.

16 A. Remotely.

17 Q. Okay. Were you working remotely at RNnetwork as well?

18 A. Yes.

19 Q. So just to go back to your --

20 MS. SCHWARTZ: And I'm almost finish, Your Honor.

21 BY MS. SCHWARTZ:

22 Q. -- to go back to your employment agreement, Exhibit2.

23 On paragraph 5, which is page 4 of the noncompetition
24 agreement. I am not going to spend time going over this
25 because it's your testimony that you never believed this was

1 going to be enforceable anyway, right?

2 A. Correct.

3 Q. But if you look at it, it says that you would not be
4 employed by another entity that competes with the types of
5 staffing you were engaged in during your last three years of
6 employment with the company, right?

7 A. Right.

8 Q. And the type of staffing you were engaged in during the
9 last three years was travel nurse staffing, right?

10 A. Right.

11 Q. So you could have worked in any other area of health care
12 staffing, like medical assistant staffing that you were doing,
13 and not violate this agreement?

14 A. There's no money in that, first of all. And second of all,
15 whatever you sent me after I got separated said differently.
16 It said no health care whatsoever. No physicians, nothing. So
17 maybe you want to look at that paperwork again. And --

18 Q. So when you testified that the documents said you couldn't
19 work in any health care staffing, you're not referring to the
20 employment agreement, you were referring to a letter?

21 A. It was part of the packet that was sent to me for
22 separation.

23 Q. Okay. Did you know that RNnetwork would view your
24 employment with AHS as a violation of its agreement?

25 A. Yes --

1 Q. Okay.

2 A. -- in their eyes.

3 Q. To be clear, in paragraph 5, the non-solicitation
4 provision, it gives a bunch of examples on the following pages
5 of the types of work you could work and not violate this
6 agreement. Do you see that paragraph?

7 A. Yes.

8 Q. And it gives examples, right? It says, by way of further
9 example, if the employee worked in, supported, managed,
10 et cetera, physician staffing, then the employee could not work
11 in physician staffing but could work in other types of
12 staffing.

13 A. Again, what I was sent after separation was different, and
14 it said I cannot work in health care at all. And this is all I
15 know for 17 years. I'm the main breadwinner in my family, and
16 you're telling me to start a new specialty from scratch.

17 Q. But now that we're looking at this agreement together, you
18 can see that the only type of work you are prohibited from
19 performing during the restricted period is nurse staffing,
20 right?

21 MR. HECHT: Objection, Your Honor. She's asking for a
22 legal opinion. The document speaks for itself.

23 THE COURT: Okay. If we could just keep moving
24 forward on this one. I think this has been asked and answered
25 a few times.

1 MS. SCHWARTZ: All right.

2 BY MS. SCHWARTZ:

3 Q. So to direct your attention to paragraph 6, which is the
4 non-solicitation of health care personnel or clients.

5 Here you agreed that during the one year restricted
6 covenant period you would not solicit, recruit, offer, or
7 otherwise provide services that are the same as RNnetwork's to
8 any current or prospective health care personnel with whom you
9 worked during the last three years of your employment with the
10 company. That's what it says, right?

11 A. Right.

12 MR. HECHT: Same objection, Your Honor. She's asking
13 for a legal opinion. The document speaks for itself.

14 THE COURT: It certainly speaks for itself. I don't
15 know what the ultimate question is. If we could just get to
16 it. I'll give you some leeway.

17 BY MS. SCHWARTZ:

18 Q. And you worked with Amanda Fobar during your last three
19 years at RNnetwork, correct?

20 A. Correct. I know her as Mandy.

21 Q. And you offered Amanda a position or to help her place her
22 somewhere in a position through AHS, correct?

23 A. Correct, until I realized -- until she opened up and said
24 that she was working with RNnetwork, who her recruiter was.

25 And I gave on a silver platter the offer. And she is currently

1 working at RNnetwork at that exact hospital in New Mexico
2 through them.

3 Q. Did you work with Matthew Dean during your last three years
4 at RNnetwork?

5 A. Yes.

6 Q. And did you work with Alicia Marcia Billings during your
7 last three years at RNnetwork?

8 A. Yes.

9 Q. And you worked with Haley Hohnhorst during your last three
10 years at RNN, correct?

11 A. Yes.

12 Q. And there are other nurses that you worked with during your
13 last three years at RNnetwork who you reached out to for
14 business when you began at AHS?

15 A. No, they reached out to me. And we have paperwork signed
16 by them that they reached out to me.

17 MS. SCHWARTZ: Okay. I have no further questions.

18 THE COURT: All right. Let's take ten minutes, and
19 then we'll start up with cross. Okay? Thank you.

20 (Recess at 2:57 p.m.)

21 (Call to Order of the Court.)

22 THE COURT: Okay, everyone. Back on the record then
23 in CHG versus Rachel Shafer.

24 Any issues before we continue on with Ms. Shafer?

25 Okay. Come on back up.

1 All right. Ms. Shafer, you continue or you remain
2 under oath.

3 And Mr. Hecht, whenever you're ready.

4 CROSS-EXAMINATION

5 BY MR. HECHT:

6 Q. Good afternoon, Ms. Shafer.

7 A. Good afternoon.

8 Q. How would you describe your professional work for the last
9 17 years? What have you done?

10 A. I have found nurses and placed them into specific
11 positions. Every 13 weeks they would change, depending on
12 where they wanted to go. I would qualify them of course. And
13 build relationships with them so that they would send me
14 referrals and stay with our company for the long run versus
15 company hop, which most nurses tend to do.

16 Q. When did you start working as a nurse recruiter?

17 A. 2006.

18 Q. And did you become a proficient nurse recruiter back in
19 2006?

20 A. I had about two weeks training. And then after a couple of
21 months of trial and error and experience, I started becoming a
22 stronger and stronger recruiter. And about -- I would say
23 about six months I would -- I was one of the fastest.
24 Actually, I was the fastest growing recruiter that they had
25 back then, and I would consider myself proficient at that

1 point.

2 Q. Now, you say you were the most proficient recruiter back in
3 2006?

4 A. The fastest growing recruiter that they had back then. And
5 an article was even written about me.

6 Q. Are you saying there was an article that was published
7 about you back in 2006 about you being the fastest recruiter?

8 A. Correct.

9 Q. Okay. And who was the article published by?

10 A. The RNnetwork or at CHG. Back then we had like a magazine.

11 Q. Okay. So CHG back in 2006 published an article that you
12 were one of the best recruiters?

13 A. Correct.

14 Q. Now, when you work as a nurse recruiter, how would you get
15 the nurses, the list of nurses to recruit?

16 A. It depends. When you're a new recruiter, you are dependent
17 on the leads that the company buys and whatever is in the
18 system as far as names and numbers. As you grow your business,
19 you start to get more referrals. And then that's how you would
20 get your prospects, candidates.

21 Q. And when you say "referrals," can you please elaborate
22 exactly what you mean by "referrals"?

23 A. A referral is when a nurse is so happy with your work that
24 they bring and refer their friends and colleagues to you, and
25 they also get a referral bonus from the company for doing so.

1 Q. Okay. So you're saying that at some point when you become
2 more proficient, when you're not a new recruiter, you rely
3 mostly on referrals?

4 A. Correct.

5 Q. Did there come a point where you relied only on referrals?

6 A. Yes. I got -- I want to say the last about five years.
7 And it got to a point where in the last like two to three years
8 I had to tell them to stop sending me leads because I could not
9 handle the amount of people wanting to work with me. I needed
10 to just work with the referrals.

11 Q. Okay. And when you say you asked them to stop sending me
12 leads, who do you mean by "them"?

13 A. I asked my manager to shut off leads for that week for me,
14 and it would be every week that I would ask for that.

15 Q. And that would be your manager at RNN?

16 A. Correct.

17 Q. Do you recall the specific name of the manager?

18 A. Christine Poge, Bill Cornhoff.

19 Q. Okay. So you would say for the last five years in RNN you
20 relied primarily on referrals?

21 A. Correct.

22 Q. Did you have any use from a nurse list at that time, for
23 the last five years?

24 A. I didn't really need it because, again, the referrals were
25 so overwhelming. But anyone can use a nurse list. But like

1 again, I didn't even have time to call the leads from
2 RNnetwork's database, which is the nurse list, because I was
3 overwhelmed, didn't have time to even mass text them, I didn't
4 even have time to mass email them. I was focusing on my own
5 referrals.

6 Q. Okay. And just to clarify, when you say you received
7 referrals, these are referrals that nurses bring directly to
8 you, right?

9 A. Correct.

10 Q. It's not that they bring it in general to the company, to
11 RNN?

12 A. Correct.

13 Q. They just refer to Ms. Shafer directly, correct?

14 A. Yes, and I can use them with whatever company I am with.

15 Q. Okay.

16 A. Or if I wanted to be mean, I could just direct them to
17 another recruiter at another company, you know. But, yeah.

18 Q. Okay. Now, you mentioned that back in 2006 when you
19 started working for RNN, you received some training, correct?

20 A. Two weeks back then. That's all you got.

21 Q. Do you remember what kind of training you received back
22 then?

23 A. Yes. They basically teach you about the company and the
24 specialties. And you do practice runs on finding jobs with the
25 nurses to talk about kind of errors that can happen or

1 difficult times, difficult questions. And then you're
2 basically left on your own to just figure it out.

3 And there was a manager that, you know, would be there
4 if you had any questions. But I had to learn myself. I had
5 to -- I remember having -- crying at my desk because of me
6 getting a contract and another company stealing it from me, and
7 I didn't know what to do or how to go about it. But you learn.
8 When something like that happens, you learn. And I was able to
9 teach myself and become strong enough to train other people on
10 how I do it my way, which differs from other recruiters.

11 Q. Now, when you say that after the first two weeks of
12 training back in 2006, did you receive any additional training
13 from RNN after that?

14 A. Uhm, I don't recall, unless something new came out, like a
15 new gross margin calculator, a new law or something like. I
16 don't remember any real sitdown trainings, unless it -- we had
17 to do some online trainings like for HR, but not formal this is
18 how you recruit. I don't think it's something that you can
19 really teach. You either have it or you don't.

20 Q. Now, you've heard before some testimony about something RNN
21 calls core training for the first eight weeks. Have you ever
22 received such a core training?

23 A. No. This is their new training nowadays, and they also fly
24 people to Utah to see the corporate office and do some kind of
25 training there. I never had any of that.

1 Q. And you also heard them say about something called core to
2 floor training?

3 A. I've never seen or heard that, about that.

4 Q. And there was also testimony about weekly or monthly
5 continuous training. Have you ever received any weekly or
6 monthly continuous training with RNN?

7 A. No.

8 Q. Did RNN ever provide you with an instructions manual that
9 tells you how to recruit nurses?

10 A. No. I don't think there's such a thing for any company.

11 Q. Okay. How did you learn how to recruit nurses?

12 A. Just -- I mean, I worked six days a week, even Saturdays,
13 when I started, and just called a million people and just,
14 just, just trial and error, you know. You just see what things
15 work and what doesn't work. And right now the industry is
16 changing again. And you have to do the same thing, start from
17 scratch and teach yourself, and be open to making 100 phone
18 calls a day and really putting in the hours and time and
19 effort. A lot of people don't want to do that, you know, in
20 the beginning. And you just learn over the years. Every day
21 you learn something new.

22 Q. Is it fair to say that you learned nurse recruiting on your
23 own?

24 A. Yes.

25 Q. Now, you're aware in the complaint that RNN filed against

1 you they claim that they taught you -- they provided you with
2 information that helps you make placements faster than RNN
3 competitors.

4 A. No. The only thing that would make it faster for a company
5 to place someone is the amount of jobs and connections that
6 they have with the hospital and how fast their internal staff
7 works.

8 RNN would take two days to send out my presentation,
9 which is unheard of. A job is closed within hours. I even
10 asked if I could learn how to do this myself and do it after
11 hours for free, and they would not let me.

12 Other companies, they let you send out your
13 presentation yourself. So it goes directly to the hospital.
14 So they actually have the advantage versus RNnetwork because
15 their file gets their fastest. The early bird gets the worm.

16 Q. Okay. So would it be an accurate statement to say that not
17 only was RNN not making your recruiting faster, but they
18 actually slowed down your recruitment process?

19 A. Yes. At one point they couldn't even handle the amount of
20 presentations I was, I was putting out, and they limited me to
21 four per nurse because they didn't want to teach me how to send
22 the files out myself, and they didn't have enough staff, or
23 they wouldn't ask their staff to work overtime, and it was
24 hindering my book of business and all around business.

25 Q. Now, RNN is also alleging in their complaint against you

1 that they've provided you with certain business strategies.

2 Did RNN provide you with certain business strategies?

3 A. Maybe, but I didn't always listen to them because I just
4 had my own way that worked and that's why I was a successful
5 recruiter, and they didn't like that. So I had my own
6 strategies that worked and brought in the 6.6 million.

7 Q. So you say maybe they provided you with business
8 strategies. Do you recall any specific business strategy that
9 they ever provided you?

10 A. Not one that other companies wouldn't have. Like they
11 wanted me to get the application in first, then the resume.
12 And for me that didn't work. I got in the resume first, then
13 the application, which they didn't like. You know, simple
14 things like that. But there's -- there was no -- I didn't
15 follow any strategies. I did things really my own way, which
16 is what set me apart from other recruiters.

17 Q. Now, RNN is also alleging that they provided you with
18 market research. Did RNN ever provide you with any market
19 research?

20 A. I don't really know what that is besides -- no, I don't
21 really know what that is.

22 Q. To the best of your understanding, what does "market
23 research" mean?

24 A. Maybe they could tell me that other companies are not doing
25 well, that they're laying off, that jobs are low, hospitals are

1 wanting to hire personal. But this is information that
2 everyone knows, right?

3 Q. Do you recall ever using market research in your nurse
4 recruitment jobs?

5 A. No.

6 Q. Did you rely on any market research to help you with your
7 nurse recruiting?

8 MS. SCHWARTZ: Objection, Your Honor. She testified
9 she doesn't know what market research is and that didn't stop
10 the continuing questions on market research.

11 THE COURT: Okay. Mr. Hecht, if we can just move
12 forward, that would be great.

13 BY MR. HECHT:

14 Q. Now, did RNN ever provide you with leadership training?

15 A. No, I didn't want it.

16 Q. So you were never involved in RNN's leadership training
17 program?

18 A. No, I was never interested.

19 Q. Okay.

20 A. It was offered to others, whoever wanted it, but I was
21 never interested.

22 Q. So you were never interested and they never provided you an
23 actual leadership training course, correct?

24 A. Correct.

25 Q. Did RNN ever provide you with employee coaching and

1 development?

2 A. Uhm, things that they did call, like a writeup that they
3 would call a coaching and development, but it's -- with my
4 issues, there was no real coaching and development really
5 there. I mean, I didn't communicate to people. Because
6 they're saying I have a communication issue. I do not
7 communicate with people over the phone. I only email and text.
8 So anything that you look for should be in writing, first of
9 all. And I -- there was no real coaching, no.

10 Q. Okay. So the only thing you can think of that's coaching
11 and development are those writeups you're talking about?

12 A. Yes.

13 Q. Can you explain what those writeups you're referring to
14 are?

15 A. Uhm, like the ones that said that I'm having issues with
16 communication, that -- I mean, maybe a coaching would be that I
17 should take a deep breath before I send an email. But,
18 obviously, that's a common thing, you know. It's not real
19 coaching.

20 Q. Now, did RNN provide you with any cost control strategies?

21 A. No. I was a senior recruiter, so I could create whatever
22 pay packages I pretty much needed to. And if it was at a
23 certain level where I needed to ask for a sign-off, I would
24 just have a manager sign off on it.

25 Q. But they never provided you any training about cost

1 control?

2 A. No.

3 Q. Okay. Now, is it fair to say that in order for you to do
4 your job you just had to use common sense?

5 A. No. It takes common -- it takes common sense, but it also
6 takes experience. You know, it does take knowledge. You need
7 to learn a lot about the industry and the nurses. I went to
8 nursing school, so I know also a lot more than the average
9 RNnetwork person. I am on the level of the nurse manager
10 there. When there is clinical issues that happen, I know
11 what's going on, what to say. I know where a certain nurse can
12 work that might be a different label than their initial
13 specialty, where a new recruiter or another recruiter wouldn't
14 know this. So I have that background as well that makes me a
15 stronger recruiter. Most nurse recruiters are not nurses
16 themselves.

17 Q. So is it fair to say that being a nurse yourself helped you
18 with your nurse recruiting job?

19 A. Definitely. And I keep my license up to date for the fact
20 that they can look it up and see that. And that is a huge
21 thing that does help me become successful or be successful is
22 that they see that I know what it feels like to work nights on
23 a unit; when you get too many patients, what to do; when you
24 get too many patients, what to do when something's happening
25 incorrectly in the hospital and how to react. So I know all of

1 these, all these things.

2 Q. Okay. And just to be clear, did RNN train you to become a
3 nurse?

4 A. No.

5 Q. Okay.

6 A. I got a full scholarship and went to nursing school when I
7 was working at RNnetwork.

8 Q. And you became a nurse prior to 2012?

9 A. Correct.

10 Q. And RNN did not pay for your nursing school, correct?

11 A. Correct.

12 Q. Now, let's talk about your compensation at RNN. How were
13 you compensated by RNN?

14 A. Well, now that I speak to other companies, not fairly at
15 all. They give you a very low percentage. They started me at
16 35,000, which most companies start you out 50. And they only
17 give you up to 8.75 percent of the commission, whereas my last
18 company gave 15 percent.

19 Q. So is it fair to say that your compensation consists of
20 salary plus commission?

21 A. Yes. Primarily commission.

22 Q. Okay. And how much was your salary in the last year you
23 were at RNN, just the base salary?

24 A. Uhm, I'm sorry, I forgot. But it's either between 50 or
25 53, somewhere around there.

1 Q. And how much have you earned in commissions in 2022?

2 A. About 600,000.

3 Q. Okay. Is it fair to say that your primary income at RNN
4 was commissions, correct?

5 A. Correct.

6 Q. Now, how was your commissions calculated?

7 A. By the amount of nurses that I had working that one month.
8 And so -- and how much money they brought in. And depending on
9 the amount of money after things were subtracted for, you know,
10 costs, they would put you into a tier of -- you know, 100,000
11 to 150 would be this percent, 200,000 to 250 would be this
12 percent. But the top I think was 8.75 percent, which is super
13 low in the industry.

14 Q. Okay. Now, you mentioned that there were certain tiers
15 that you would be broken down to.

16 A. Yes.

17 Q. Can you describe a little -- in more detail how those tiers
18 are calculated and what do you mean?

19 A. Uhm, I don't really know how they calculate them, but it's
20 basically from -- if you bring in zero dollars -- they have a
21 little chart. From zero dollars to 50,000, then you make this
22 percentage. And it goes up and up until you get to
23 8.75 percent.

24 Q. Okay. And does zero dollars to 50,000, or whatever tiers
25 we have, are they on an annualized basis?

1 A. Monthly.

2 Q. Okay.

3 A. So month. It's what you bring in that month.

4 Q. Okay. So what was the standard process used at RNN to pay
5 you those commissions?

6 A. They always paid it a month behind. So they would have to
7 analyze, you know, what hospital didn't pay or any penalties,
8 take that out, and then they would pay you the following month
9 on the percentage that you brought in for that amount of money
10 that the nurses brought in for that month.

11 Q. Okay. Now, is it true that while you were paid
12 commissions, you would regularly receive a report called gross
13 margin details?

14 A. Yes.

15 Q. Okay. And that was a monthly report that you received from
16 RNN?

17 A. Yes.

18 Q. Okay. And what was the purpose of that report?

19 A. So you can see who you're being paid on and any things
20 that -- any items, line items where you lost money for that
21 particular nurse. Like if the hospital didn't pay for
22 orientation or the nurse didn't go to the assignment, the
23 hospital charges you a \$2,000 penalty, that would come out of
24 your final number. So that's the report that would get sent
25 every month. But a lot of times it was inaccurate.

1 Q. Okay. So the gross margin report that you received would
2 reflect the amount that RNN wants to pay you for that
3 particular month; is that correct?

4 A. Yes. And there's no way to know if it's really correct or
5 not, honestly, because they could put whatever numbers they
6 want. There is no way for a person to really 100 percent know
7 if the numbers are correct.

8 Q. Okay. Now, did RNN also send you working and awaiting
9 reports?

10 A. Every Monday, yes.

11 Q. So when you say you received that report every single
12 Monday, how long back would you say you started receiving those
13 working and awaiting reports?

14 A. From day one. Once you place a nurse, you get a report.
15 That's all of your nurses that are on assignment.

16 Q. Did you have to make a specific request to get the working
17 and awaiting?

18 A. No, it's my -- it's sent to the recruiters. But it was
19 sent to my assistant every Monday, and she would correlate
20 it -- sort it, I should say, by start and end date, the way I
21 wanted, and send it to me.

22 Q. Okay. Did every nurse recruiter at RNN receive a working
23 and awaiting report?

24 A. If they had nurses, yes.

25 Q. Okay. So this was a standard business practice in RNN to

1 send the working and awaiting report to every nurse recruiter
2 on a weekly basis?

3 A. Correct.

4 Q. Okay. And what was your understanding of the purpose of
5 the working and awaiting report?

6 A. Twofold. One is to see which nurses I have that are ending
7 so I know to find them a new assignment. It's just easier to
8 see. It's right there next to me. And also for me to remember
9 to touch base with them, keep in close contact. I have a list
10 right here. And also I used that report to compare to my
11 commissions report to make sure that my commissions were
12 correct, that no names were left off.

13 Q. Okay. So would you say -- would it be fair to say that the
14 working and awaiting report was used as a tool to reconcile
15 whether the commissions on the gross margin reports reflect the
16 accurate -- reflect accurately the nurses that you had that
17 particular time period?

18 A. Correct.

19 Q. Now, I believe you testified before that you're more a
20 paper person, you're not such a text savvy person; is that
21 correct?

22 A. Correct.

23 Q. Okay. So you like to work pen and paper?

24 A. Yes.

25 Q. More than technology, right?

1 A. Correct.

2 Q. How would you describe your level of sophistication working
3 with Excel?

4 A. Bad.

5 Q. Very bad?

6 A. I mean, I really know Word. When it comes to like DocuSign
7 and Adobe, I'm very bad. This is why I have assistants. I
8 learned the program from the company and I've become an expert
9 on that, but I have never been good with Excel and stuff like
10 that. And that's -- your assistants are there to do that, to
11 sort it, to -- I shouldn't be spending time on this. I should
12 be spending time on recruiting, right?

13 Q. Did RNnetwork ever provide you a course in Excel?

14 A. No.

15 Q. Did RNN provide you a course in any technology?

16 A. No. Well, Bullhorn, but it was -- it changes from time to
17 time. But, yes, when we got a new system, we got a fast
18 training on that system. It's their computerized system that
19 they use for their company.

20 Q. Okay. Can you describe your standard practice of what you
21 did on a regular basis once you received the working and
22 awaiting report? What did you do next?

23 A. I would check who's ending, who's ending first, and know
24 that that's who you need to start communicating with at a
25 higher level and start looking for jobs. I would write notes

1 on it of who I know who was going perm, who I already found an
2 assignment for. And what else? It has been a while since I've
3 used one.

4 Q. How about as it relates to your commission; what did you do
5 as far as reconciling it with your commissions?

6 A. See -- I would compare it and see if any names were missing
7 from the commission report that were on the working and
8 awaiting.

9 Q. Okay. Now, when you made these comparisons, did you make
10 the comparisons like in Excel or on your computer or you made
11 it on --

12 A. Paper.

13 Q. -- pen and paper?

14 A. Paper.

15 Q. So in order for you to be able to make comparisons based on
16 your level of knowledge with Excel or systems, it was necessary
17 for you to print those reports?

18 A. Yeah. I just like to write notes and put it side by side
19 and be able to highlight. You know, I find that much easier
20 than the computer screen.

21 Q. Okay. Now, in your experience history with RNN, did
22 anybody ever at RNN tell you that you are not allowed to print
23 any reports?

24 A. No.

25 Q. Are you aware of any company policy at RNN that prevented

1 employees from printing any documents?

2 A. No.

3 Q. Okay. Was it standard practice in the company for
4 employees to print documents?

5 MS. SCHWARTZ: Objection. Calls for speculation.

6 THE COURT: Okay. Only if you know. I mean, I know
7 you work remotely. So if you don't know, don't answer.

8 THE WITNESS: Well, I know I was trained from day one
9 by my manager to print those reports, put them on a clipboard,
10 and how to look for things and mark things when I signed a
11 contract. So I would keep track to be able to see that
12 everything the following week was calculated for it. If it
13 wasn't, to follow up on.

14 And even back in the day I used to use files and write
15 everything by hand because the number one recruiter who I
16 watched and learned from did that. And that just worked for
17 me. And when I had to switch to computer, it was difficult.
18 But I did, you know, switch to non-paper.

19 But those two reports, to the last day -- to the last
20 week I was there, on my clipboard, right by my desk, you know.
21 I wrote notes for myself.

22 BY MR. HECHT:

23 Q. Okay. So you say not only was it not against public
24 policy -- against company policy to print, but you were
25 actually trained by your boss to print?

1 A. Correct.

2 Q. Okay. Now, did you have a problem printing these reports
3 from your RNN email account?

4 A. Yes. I don't know why I had issues with Outlook. So I
5 would have to -- I would sometimes even have issues with Gmail.
6 But it was easier for me to print from Gmail. And that's why I
7 would send it to my Gmail and print it on my computer.

8 Q. So in order to print the file, you had to first forward it
9 to your Gmail account?

10 A. Yes.

11 Q. And you were not aware of any other way to get this file
12 printed unless you forwarded it first to your Gmail account,
13 correct?

14 A. Yes.

15 Q. And can you explain why were you able to print it from your
16 Gmail account? What was different about your Gmail account
17 that was not available on your RNN account?

18 A. It's something with any phone. I don't know what it is. I
19 had the same issue with AHS where I couldn't even sometimes
20 email like a picture or something to myself to the AHS account.
21 I would have to send it my Gmail to AHS. And I did that there
22 too.

23 Q. Would you -- would it be fair to say that your -- that it's
24 easier for you to work with Gmail versus another email
25 provider?

1 A. Yes.

2 Q. And that's the reason you forwarded it to your Gmail
3 account?

4 A. Yes.

5 Q. Okay. And was it customary practice for you to forward it
6 to your Gmail account?

7 A. Yes, I did everything. Like if a nurse texted me a
8 document or a communication, I would forward it to my Gmail and
9 send it to the work account and then copy it into their system,
10 copy and paste it and make it a note into their system.

11 Q. Now, you heard testimony here from RNN where they said that
12 they did a search in your sent box and they only found emails
13 from March 9, 2023, where you forwarded the working and
14 awaiting email to your personal account; is that correct?

15 A. That's not correct. We even have reports from I think
16 '21 where I have done the same thing.

17 MR. HECHT: Okay. Your Honor, I would like to
18 introduce at this time rebuttal evidence to show that she's
19 done that practice of forwarding to her personal account before
20 March 9, 2023.

21 THE COURT: Okay. So when you say "rebuttal
22 evidence," what is it?

23 MR. HECHT: We have emails dating back prior to
24 March 9 where she has forwarded to her personal Gmail account
25 more than a year before that.

1 THE COURT: Okay. Show it to opposing counsel. Let
2 her take a look, number one. Number two, I don't know if
3 you're contesting that even. I'm not sure.

4 MS. SCHWARTZ: I haven't seen it. But she did testify
5 that she destroyed all prior copies and only has the week ten
6 and week six, but here we are. So I don't know.

7 THE COURT: Well, take a look and let me know.

8 THE WITNESS: Your Honor, may I have a tissue, please?

9 THE COURT: Oh, yes.

10 MS. SCHWARTZ: I suppose I object to this document.
11 It's not an appropriate rebuttal document because it's a
12 completely different -- it's a commission detail sheet, as
13 opposed to the working and awaiting sheet.

14 THE COURT: Okay. So here's what I'll do. Noting
15 that objection, I'm going to allow you to get into it,
16 Mr. Hecht. But, you know, obviously I'm going to give you some
17 brief redirect as to that difference, if you need to go into
18 it. Let's see what happens.

19 MR. HECHT: Okay. May I approach?

20 THE COURT: Sure.

21 BY MR. HECHT:

22 Q. Ms. Shafer, do you see here there's an email that's -- that
23 you forwarded to me, but it's also dated -- the original email
24 is dated May 23, 2022?

25 A. Yes.

1 Q. And who's the sender of that email?

2 A. I am.

3 Q. Okay. And which email account did you use as the sender of
4 this email?

5 A. Uhm, my RNnetwork to my Gmail.

6 Q. Okay. Would this be an example that back in May 23, 2022,
7 you have forwarded an email with your commission details sheet
8 to your personal Gmail account?

9 A. Yes, I would -- like I said, anything that I thought was
10 important, I would send it to Gmail and keep it.

11 Q. Okay.

12 THE COURT: So, Mr. Hecht, and I'll let you get into
13 this as much as you want, but the only issue I have looking at
14 this document, although I will let it into evidence, is I don't
15 think plaintiff has any problem with this. I think what they
16 have a problem with is not commission detail sheets, but
17 it's --

18 MS. SCHWARTZ: Working and awaiting.

19 THE COURT: -- these things.

20 MR. HECHT: We will introduce evidence to that effect,
21 too. But I want to first demonstrate that this was a standard
22 business practice that she did back before she even -- before
23 firing was even contemplated. That was not the purpose of her
24 forwarding the emails. She just forwarded it because she had
25 to print it, and we can see evidence the year before she also

1 did it.

2 THE COURT: But again, there's a big difference
3 between this and this. So, look, I'll let you get into it.
4 But, again, I don't think this is an issue.

5 MR. HECHT: Plus, Your Honor, I think during the
6 course of these proceedings they've changed positions. But in
7 their complaint they're alleging that the commission details
8 report was also a trade secret.

9 THE COURT: Okay. Fair enough.

10 MR. HECHT: I think during the course they have
11 changed positions, but initially -- in the complaint, in the
12 motion for preliminary injunction, in both of these they
13 presented that this document is a trade secret.

14 THE COURT: Okay.

15 BY MR. HECHT:

16 Q. So Ms. Shafer, does that email reflect that back in May of
17 2022, more than a year ago, you forwarded an email with some
18 commission details to your Gmail account, correct?

19 A. Yes. And it's very similar to the working and awaiting,
20 this report, which is why I compared the two.

21 Q. Okay. Did anybody threaten to fire you at RNN back in May
22 of 2022?

23 A. No, not that -- not that I recall.

24 Q. Okay. Can you think of the reason why you forwarded that
25 email to your Gmail account back in May of 2022?

1 A. To print it.

2 Q. Okay. So the same reason you forwarded it on March 9,
3 2023, right, to print it?

4 A. (No audible response.)

5 Q. Is that a "yes"?

6 A. Yes. Sorry.

7 Q. If you can, because we have a court reporter. So if you
8 can, instead of nodding, answer verbally.

9 MR. HECHT: Your Honor, opposing counsel has
10 introduced a document electronically that they have gone
11 through on the computer. We want to be able to demonstrate the
12 same document. We didn't get electronic copy of it. So I want
13 to ask if we can get that document to present it to the witness
14 to go over with electronic version.

15 We talked about the working and awaiting document
16 that's --

17 THE COURT: Here's the issue. It's going to have to
18 be under a confidentiality order. That's the exact document
19 they don't want anyone else to have. But I guess what we could
20 do is rather than sending it to you, I could have you all put
21 it on the screen and then Mr. Hecht could ask the questions.
22 That way you retain --

23 MS. SCHWARTZ: Your Honor, it's Exhibit 5 on his
24 exhibit list. He has it.

25 THE WITNESS: This.

1 MR. HECHT: But I don't have the exact version that
2 she introduced. I can introduce a copy that's similar to that
3 one that was forwarded to me, but I really want to go over that
4 particular exhibit.

5 If you will stipulate that the copy I sent over to
6 myself is the same one, then I can go ahead and use mine.

7 MS. SCHWARTZ: You never produced yours to us, but I
8 don't see why it would be different.

9 THE COURT: All right. I mean, if you want to do it
10 that way, we can do it that way. But we really need to keep
11 moving. So you want to use the computer screen then from your
12 table?

13 MR. HECHT: Yes. Can I use this microphone instead?

14 THE COURT: Sure.

15 BY MR. HECHT:

16 Q. Ms. Shafer, you see here is an email that was previously
17 introduced into evidence, which is dated March 9, 2023?

18 A. Yes.

19 Q. And the title of the email is "Working and Awaiting Week
20 10," correct?

21 A. I don't see the title. Oh, yes.

22 Q. And again, this is an email that was forwarded from your
23 RNN account to your Gmail account, correct?

24 A. Correct.

25 Q. Now, you see in the bottom the origin of the email, it's

1 coming from a person by the name of Jessica Eichel?

2 A. Yes.

3 Q. Who is Jessica Eichel?

4 A. My main assistant. And Abraham at the time was the second
5 assistant who was cc'd, I believe.

6 Q. And is this similar to the reports that you received on a
7 weekly basis --

8 A. Correct.

9 Q. -- with working and awaiting?

10 A. Correct. And as you can see, she writes that the other
11 report's not ready yet so she's going to send it to me a little
12 bit later.

13 Q. When she was referring to the other report that's not ready
14 yet, which report is she referring to?

15 A. Travel on assignment, TOA.

16 Q. You see in the bottom of the email there's an attachment
17 that's called "Working and Awaiting"?

18 A. Yes.

19 Q. Let's open that email.

20 A. And as you can see, it's only my name. And she takes out
21 different columns that we just don't need or -- even emails.
22 See, she makes it small. So I don't have the email when I
23 print it, as you can see here.

24 Q. So is this the format you received that file?

25 A. Yes.

1 Q. Okay.

2 A. I like to see who's ending first, as you can see, so I can
3 start working with them first. And she makes it smaller so
4 that it fits on one page. This report is usually legal size
5 and has more information on it.

6 Q. If you go down to the bottom -- and I think Google Sheets
7 helps you out with that. If you look at the bottom on the
8 number of records that you see in that file, how many records
9 are in that file that you received?

10 A. 113.

11 Q. Okay. And you see on column G of that file it has your
12 name on it?

13 A. Correct.

14 Q. What does column G reflect on that file?

15 A. The recruiter who signed the contract for all these nurses.

16 Q. Okay. So it would be fair to say that when you opened the
17 file, you saw a list of about 113 nurses that you recruited?

18 A. Correct. Some of them are going to be duplicated here if
19 I've booked multiple assignments for them.

20 Q. So it may not be 113 unique nurses, correct?

21 A. Correct.

22 Q. Okay. But would it be fair to say that at that time, back
23 in March of 2023, this reflected an active list of nurses that
24 you were working with?

25 A. Correct.

1 Q. Okay. And would be fair to say that the information you
2 see on that sheet was necessary for you to be used to reconcile
3 whether you received proper commission for these nurses?

4 MS. SCHWARTZ: Objection. Your Honor, he converted
5 this document into some Google Sheet thing that is not the
6 Excel spreadsheet that was attached to her original email. So
7 all of these questions pertain to this manipulated document
8 that is not the actual document she had emailed.

9 THE WITNESS: But that is what --

10 THE COURT: Hold on.

11 So Mr. Hecht, talk to me about that. And it's pretty
12 obvious that this is converted because what plaintiff's counsel
13 put on the screen didn't go from 1 to 113. It skipped numbers
14 throughout the 2,500 people. And so this is clearly a
15 converted document. Talk to me about that.

16 MR. HECHT: Right. Your Honor, we are using here
17 Gmail to access these files. It's the same Gmail account that
18 was forwarded to her. Gmail has a default function. When you
19 click on a file, Gmail will pick what software to open the file
20 in. This is obviously an Excel file. As we can see, it ends
21 with xlxs. Google has an Excel file reader. It's not a
22 different file. It's exactly the same file. It's just a
23 different tool that's used to open that file.

24 THE COURT: So --

25 MR. HECHT: Whereas they can use Excel to open the

1 file, we're using here a Gmail software which comes by default
2 with a Gmail account to open these types of files. But it's
3 exactly the same file.

4 Now, we will get to the point why it's counting is a
5 little different. Your Honor, we'll get to that point.
6 Because what's obvious in this file, that there is some kind of
7 a setting of this file that somebody with some technology --
8 someone with some technological background has to understand on
9 how to remove that setting to see a lot more than 113 records.

10 THE COURT: Okay. So what you're saying is when
11 Jessica or Abraham forwards this email to Ms. Shafer, she
12 clicks on it in her Gmail, and that's what comes out.

13 MR. HECHT: That's exactly what's coming up. Yes,
14 Your Honor. And I'm also using a Gmail account. That's why I
15 think -- it reflect accurately exactly how the Gmail software
16 works.

17 THE COURT: Okay. I'll hear the testimony, and this
18 will all be part of the argument then.

19 MR. HECHT: Okay. The Internet keeps disconnecting.

20 THE COURT: That's fairly normal here, unfortunately,
21 but you should be okay.

22 BY MR. HECHT:

23 Q. So Ms. Shafer, to the best of your knowledge when you
24 received this file and you clicked on it, the same way I'm
25 clicking on it right now, you saw here 113 records, correct?

1 A. Correct.

2 Q. Were you aware that there is any way you can modify this
3 file to see more than 113 records?

4 A. Not at all. I didn't even think about it because, again,
5 my assistant formatted it for me and so why would I get
6 anyone's information or I don't even know why RNnetwork would
7 make that available to everyone. And half of this stuff I
8 don't even need to know. I need to know their name, the
9 hospital, the start and the end date. That's it.

10 Q. So on March 9, 2023, when you received this file, did you
11 print it out?

12 A. Yes.

13 Q. And when you printed out this file, did you print out the
14 113 records on this file?

15 A. No, it's usually about five pages.

16 Q. So it was about five pages total --

17 A. Yes.

18 Q. -- that came out when you printed this file, right?

19 A. Correct.

20 Q. Do you know approximately how many records you have on each
21 page?

22 A. No. It depends on how thick the lines are, the way she
23 spaces it.

24 Q. Okay. You think you have like a thousand records on one
25 page?

1 A. No.

2 Q. It's more like 20 or 25 records per page?

3 A. Maybe 25, yeah. 25. Or you could just -- yeah, about 25.

4 Q. Okay. And you said you printed out this document in five
5 pages, correct?

6 A. Correct. Four to five, yeah.

7 Q. And what was the purpose of printing out that document?

8 A. For me to be able to highlight and write notes on it. You
9 know, who I've already placed, who I need to work on that week.
10 It was my, my, my week's main focus to work through these two,
11 not lose any nurses.

12 So like Catherine Finch would be the first person I
13 would need to focus on to not lose her to another company, to
14 find her an assignment right away. So I know Katherine,
15 Priscilla, and Danielle I have to focus on.

16 And then I -- I like the hospital names so that if
17 they call me, I can just quickly see where they're working at
18 without having to look it up in the system and be able to talk
19 to them about their assignment.

20 But I don't really use anything else on this
21 spreadsheet at all. I don't need to know the GM. I'm the one
22 who created that. I don't need to know the bill rate. That
23 fluctuates on a daily basis. I don't need to know any of these
24 other names. I don't need to know their shifts. That changes
25 all the time. And I pretty much have their specialities and

1 what they like memorized.

2 Q. Now, you emailed this document to yourself back in March 9,
3 2023, correct?

4 A. I believe so.

5 Q. And you were fired from RNN on March 30, 2023, right?

6 A. Uhm, was it March or April?

7 Q. I believe -- the complaint at least alleges that you were
8 fired on March 30, 2023.

9 A. Okay.

10 Q. Now, between March 9th and March 30th did you continue to
11 work for RNnetwork?

12 A. Yes, a lot of hours.

13 Q. You continued to recruit nurses for RNnetwork?

14 A. Yes. I was actually in shock when they called me after my
15 vacation, two days after my vacation to let me know that we
16 were separating.

17 Q. So you printed out this document for the purpose of
18 recruiting nurses for RNnetwork, correct?

19 A. Correct, and to match up with my commission sheets.

20 Q. Now, you see here in column G the first row says -- I
21 believe it says "Recruiter." It may be a little bit cut out.
22 But you see the word "Recruiter" there?

23 A. Yes.

24 Q. You see next to the word "Recruiter" there is a little
25 icon?

1 A. Uh-huh.

2 Q. Do you know what that icon is?

3 A. No.

4 Q. Do you have any idea what this icon represents?

5 A. No.

6 Q. Have you ever --

7 A. The only thing I know that -- is that you can press on
8 start and end date and it will move the numbers. But then even
9 that, like I'm scared to do that, that it's going to put the
10 names not in order with the information. So I don't touch
11 anything. If it's sorted the wrong way, I go back to the
12 assistant and say it's sorted the wrong way, please redo it and
13 send me a copy.

14 Q. Now, I'm trying to click now this little icon and nothing
15 happens. So let's open it in Excel.

16 Okay. So you see now when I open this file in Excel,
17 you see -- can you see next to "Recruiter" there is a copy of
18 the same little icon, correct?

19 A. Yes.

20 Q. Okay. Now, here if I click on the icon, you see in the
21 bottom, you see there's a section that says "Sort" and then
22 there's another section that says "Filter"?

23 A. Uh-huh. Yes.

24 Q. Okay. See if I go to "Filter" and I say "Select All,"
25 okay --

1 A. Uh-huh. Yes.

2 Q. -- now the file becomes a lot bigger?

3 A. Yes. I didn't know this. I never manipulated the files.
4 So the second that I got it it went to the printer.

5 Q. Okay. Let's go down here to demonstrate how big the file
6 is once we removed the filter on that file. You see now, if
7 you look at the bottom, how many records do we have in this
8 file?

9 A. 2,467.

10 Q. Okay. Were you ever aware that this file has 2,467 records
11 on it?

12 A. No, and I don't think it's a good idea that they even make
13 a file like this and send it to every recruiter. It should be
14 your person information only.

15 Q. Okay. I think I'm done with this.

16 You recollect that the day you were fired from RNN,
17 they sent you an email telling you certain steps you should
18 take after your termination, correct?

19 A. Correct.

20 Q. And do you recall in that email they told you that you
21 should return your computer?

22 A. Yes.

23 Q. Did you return the computer?

24 A. It took me weeks. I kept asking them to send me a box, and
25 then they finally, after the second or third phone call, yes,

1 sent it, and I sent all of their stuff back.

2 Q. So you returned the computer as they instructed you?

3 A. Correct.

4 Q. Okay. Did that email identify any data that you have that
5 they want you to delete or return?

6 A. No. They even went ahead -- and I used to have a Google
7 Sheets spreadsheet that I created on my own, in my own personal
8 Google Sheets, and the second that I was let go, they deleted
9 it on their own. So, you know, like I didn't think anything
10 was being done wrong or that I had anything that was illegal.

11 Q. Okay. Now, later on they sent you a -- some kind of a
12 cease and desist letter?

13 A. Correct.

14 Q. Did you recall RNnetwork ever identifying in that cease and
15 desist letter any particular file that they want you to delete?

16 A. No.

17 Q. Okay. Now, let me ask you this. Had they identified the
18 working and awaiting and they told you that this file has 2,400
19 records in it, would you have deleted that file?

20 A. Of course.

21 Q. Okay. Now, let me ask you this. Sitting here today after
22 I've demonstrated to you the file and showing you that there's
23 a way to manipulate this file to see more than 113, but you can
24 see the whole 2,400 nurses from RNN, do you agree to delete the
25 file?

1 A. Yes.

2 Q. And do you agree also to delete every single working and
3 awaiting work file you ever received from RNN?

4 A. Yes, except for the ones -- I would like you to have the
5 last couple ones to keep in your possession to make sure that
6 I'm still being paid correctly. We need to figure out what I'm
7 being owed financially. But I can delete it from my
8 possession, yes.

9 Q. Okay. Now, you know RNN made allegations that you have
10 used their file working and awaiting to recruit nurses for AHS?

11 A. I'm aware of the allegations, but they are not true.

12 Q. Did you in fact use the working and awaiting file from RNN
13 to recruit nurses for AHS?

14 A. No. It didn't even have their phone numbers. What good
15 use of that? Most nurses don't even respond to emails. But,
16 no I did not bring that into the office space.

17 Q. Okay. Did you use the working and awaiting file for any
18 purpose other than reconciling your commission after you were
19 terminated from RNN?

20 A. No.

21 Q. Now, is it true that after you were terminated from RNN,
22 they sent you commission reports to your personal Gmail
23 account?

24 A. Yes.

25 Q. And is it true that RNN sent you the gross margin detail

1 report to your Gmail account?

2 A. Yes.

3 MR. HECHT: Your Honor, I would like to introduce an
4 exhibit that's on our exhibit list, which is an email dated
5 May 1 from Mary Coombs addressed to Ms. Shafer's personal Gmail
6 account.

7 THE COURT: Any objection?

8 MS. SCHWARTZ: No objection.

9 THE COURT: Okay. Just for recordkeeping purposes,
10 what did you want to call this? What number?

11 MR. HECHT: I believe that will be Exhibit 2. You
12 know what, Your Honor? I think, depending on how we going to
13 treat the previous exhibit that I introduced, the email which
14 is a replica of the file they sent us but we used our own
15 version, I don't know if the Court wants to see it as a
16 separate exhibit or refer as the same exhibit number the
17 plaintiff used.

18 THE COURT: To the extent that it could potentially be
19 different because of the opening it up through the Gmail
20 application, I guess you should just have it in on your side of
21 the case.

22 MR. HECHT: So we will use that as Exhibit 2, and this
23 will be our Exhibit 3.

24 THE COURT: Okay.

25

1 (Received in evidence Defendant's Exhibit(s) 2 and 3.)

2 BY MR. HECHT:

3 Q. Ms. Shafer, you see this email that was sent to you by Mary
4 Coombs on May 1, 2023?

5 A. Yes. And if you can see, I saved and had trouble opening
6 up this file. That's how great I am with IT stuff.

7 Q. So she sent you this file first in a different format and
8 you had trouble opening it?

9 A. Correct. A secured file, and I couldn't open it.

10 Q. Okay. So you asked her to resend it?

11 A. Uh-huh.

12 Q. And she sent it to your personal Gmail account?

13 A. Unsecured, yes.

14 Q. Okay. Who is Mary Coombs?

15 A. I'm not sure. I guess someone in their payroll department,
16 I'm thinking.

17 Q. And you see here in the bottom to that email there is
18 attached four different files, correct?

19 A. Yes.

20 Q. You see here the next page we have, which is a pdf printout
21 of the files that is attached. You see in the top of the
22 file -- on the top of the first page of the file it has a
23 description of the file there?

24 A. Yes.

25 Q. What does it say there?

1 A. Commission -- "Gross Margin Details."

2 Q. So is that the gross margin details report that RNN sent
3 you on a regular basis that contained your commissions?

4 A. Which is very, very similar to working and awaiting.

5 Q. Okay. Very similar to the working and awaiting that you
6 received that was filtered, correct?

7 A. Correct.

8 Q. Okay. And just to be clear, on May 1, 2023, you're already
9 fired from RNN, correct?

10 A. Yes.

11 Q. Okay. And after you were fired, they sent you a file to
12 your personal Gmail account?

13 A. Yes.

14 Q. Now, after they sent you this file, did they ever send you
15 a notice or request to delete this file?

16 A. No.

17 Q. Did you get any other indication from RNN that they wished
18 you to delete this file?

19 A. No.

20 Q. And, in fact, did you still need this file even after
21 May 1, 2023?

22 A. Yes. I compared it to the working and awaiting and
23 actually found a huge error in payment. I think like about
24 \$10,000.

25 Q. Now, you mentioned that you found an error in the

1 commissions files after they sent it to you, correct?

2 A. Correct.

3 Q. Can you describe what you mean by "error"? What kind of
4 error did you find?

5 A. I compared it to -- I compared all these names to my
6 working and awaiting that I had emailed myself and found what
7 was missing, emailed back Mary Coombs or the HR person, I can't
8 remember, to look into it, and they acknowledge yes. And it
9 was about \$10,000 that was missing. And we spoke about a
10 couple of other people that I had questioned them about. And
11 when I worked at RNnetwork, we did that with the internal
12 controller, if I had any questions about missed payment.

13 MR. HECHT: I would like to introduce another email
14 coming from Keela Briles dated April 7, 2023, that's also in
15 our exhibit list.

16 THE COURT: Any objection?

17 MS. SCHWARTZ: No objection.

18 THE COURT: Okay. So that will be Defense 4?

19 MR. HECHT: Yes.

20 (Received in evidence Defendant's Exhibit(s) 4.)

21 BY MR. HECHT:

22 Q. Now, you see that email that's sent to you from Keela
23 Briles. The fourth paragraph from the top, can you read the
24 fourth paragraph from the top? It starts with "For provider
25 Samantha Carlson".

1 A. "For provider Samantha Carlson we'll be making a manual
2 adjudgment for that one. Provider sent in time sheets for
3 those weeks, but it looks like they were never uploaded. The
4 manual adjustment of \$9,456 in GM will be included in her 4/28
5 check."

6 Q. Okay. Do you recall what happened to that particular
7 record with Samantha Carlson?

8 A. No.

9 Q. Was that -- is it your understanding from this email that
10 she's referring about an adjustment of \$9,000 related to
11 Samantha Carlson?

12 A. Yeah, but to me I think she miswrote "in her check," but
13 she meant "my check."

14 Q. Okay. So aside from that mistake that she made about her
15 check versus your check, she's talking about applying a
16 credit -- a manual adjustment of \$9,456?

17 A. Correct.

18 Q. And that's an adjustment because -- what does it mean when
19 she says "manual adjustment"?

20 A. It means they found an error and they are going to manually
21 cut me a -- or add it to my check. And if I didn't find this
22 myself, I would have been out that much money.

23 Q. Okay. So was it your -- did you bring this mistake to
24 their attention?

25 A. Yes.

1 Q. And how were you able to find this mistake?

2 A. By comparing my commission report to the working and
3 awaiting report.

4 Q. Now, Ms. Shafer, you talked before that you were terminated
5 from RNN on March -- your employment was terminated on
6 March 30th?

7 A. Yes.

8 Q. Why were you fired?

9 A. They say it's for my communication and conduct.

10 Q. What do you think the reason they fired you?

11 A. I think they fired me for asking for help and
12 accommodations for my disorder.

13 Q. Okay.

14 A. Which in part relates to what they might see as my
15 communication issues, which I don't think is an issue.

16 Q. Ms. Shafer, were you ever diagnosed for a mental disorder?

17 A. Yes.

18 Q. Did you make an accommodation request in February of 2023
19 to RNN?

20 A. Yes, but I spoke about it years prior. My managers always
21 knew what was going on, when I was going for doctors'
22 appointments, when my medication was being changed. So they
23 were in the know. And, you know, I have proof, even text
24 messages speaking to them about it.

25 Q. Now, after you were terminated from RNN, did there ever

1 come a point where you found out that RNN was still using your
2 name to send communications to its nurses?

3 A. Yes, for over a month they were. And the nurses were
4 contacting me and emailing me and forwarding me emails to me
5 asking why they were still using my name and signature.

6 MR. HECHT: Your Honor, we would like to introduce
7 here a text message screenshot from Griffin Kabala.

8 THE COURT: Ms. Schwartz, any objection to this?

9 MS. SCHWARTZ: No objection.

10 THE COURT: This will be Defense 5.

11 (Received in evidence Defendant's Exhibit(s) 5.)

12 THE COURT: Message to give Griffin Kabala using
13 Rachel's name. Is it that one?

14 MR. HECHT: Yes.

15 BY MR. HECHT:

16 Q. Okay. Ms. Shafer, this is a short text message
17 communication between you and another individual by the name of
18 Griffin Kabala, correct?

19 A. Correct. And they also mass emailed everyone in my -- in
20 the database that I had with them with my name.

21 Q. Okay. So the first message in the -- is this a printout of
22 your phone's text screen?

23 A. Yes.

24 Q. Okay. Now, you see the first message is like a screenshot
25 of some kind of an email communication, correct?

- 1 A. Oh, okay. Yes.
- 2 Q. The one that starts with the black section.
- 3 A. Uh-huh.
- 4 Q. And you see there it says the sender is Rachel Shafer?
- 5 A. Yes.
- 6 Q. And the title of the email is "Griffin how did you like
7 working with RNnetwork," correct?
- 8 A. Correct.
- 9 Q. And what's the date of that email?
- 10 A. April 10th.
- 11 Q. Okay. Would that be ten days after you were fired from
12 RNN?
- 13 A. Yes.
- 14 Q. Okay. So ten days after you were fired from RNN, they sent
15 an email -- an email was sent from your name to Griffin asking
16 her did you like working with RNnetwork, correct?
- 17 A. Correct. And it went further then ten days. Over a month.
- 18 Q. And then if you look down after the screenshot, after the
19 black screenshot, there is a text message that looks -- that
20 says, "Is this you?" You see that? It's on page number 2.
- 21 A. Yes.
- 22 Q. Who is asking this question "Is this you"?
- 23 A. Griffin is asking me if this was me who texted him or
24 emailed him this email.
- 25 Q. And what was your response?

1 A. Nope.

2 Q. Okay. So at that point after you were terminated from RNN,
3 RNN kept using your name to send email to nurses on your
4 behalf, correct?

5 A. Correct. Emails and text messages.

6 Q. Okay. Did you ever raise this issue to RNN?

7 A. Yes. And all they said was, I'll look into it, several
8 times, and they did not do anything about it.

9 Q. Did you ever get a confirmation from RNN telling you that
10 they stopped doing it?

11 A. No.

12 Q. Okay. So is it true that that continued to happen you said
13 for months after that?

14 A. Yes.

15 Q. Do you know if it ever stopped?

16 A. I'm not aware.

17 Q. Okay. So is it true that because of this happening, you
18 wanted to do something about it to rectify it so nurses know
19 that you no longer work for RNN?

20 A. Correct.

21 Q. And what did you do?

22 A. I let them know that I was no longer working with them,
23 that we separated, we parted ways, and that I was now with AHS
24 Staffing.

25 Q. So part of the purpose on why you reached out to nurses

1 from RNN telling them that you switched company was to make
2 sure that RNN does not spread false information about you that
3 you're still working for RNN, correct?

4 A. Correct.

5 Q. Now, after you were terminated from RNN, you started
6 working for AHS?

7 A. Yes.

8 Q. Okay. Now, when you worked for AHS, did you use any of
9 these working and awaiting gross margin details or any other
10 data you received from RNN to help you recruit nurses in your
11 new company at AHS?

12 A. No. Unlike RNnetwork, their database was a free-for-all.
13 So any recruiter could reach any nurse. It wasn't separated
14 by -- at RNnetwork you have so many nurses in your name, and
15 that's the only nurses you can contact. With AHS, it's the
16 whole system. There's rules, you know. You can't contact
17 someone within maybe two weeks or 30 days if someone has been
18 communicating. But you have a much bigger pool.

19 And then they gave me my very own access to Vivian,
20 which RNnetwork didn't. So I would get leads every week like
21 with a full resume, everything, vetted. Again, full resume.
22 They gave you leads.

23 So because I'm starting at a new company, I don't have
24 a book of business, I don't want to touch RNnetwork nurses, I
25 had to call prospects like a brand-new recruiter and use the

1 paid leads. And then I had referrals too. But, of course, I
2 was only there for a short period of time and people were just
3 now getting to know where I was.

4 Q. So is it fair to summarize that AHS provided you with an
5 abundance of nurses that you can tap into and recruit?

6 A. Yes.

7 Q. Did they provide you more nurses than RNnetwork provided
8 you?

9 A. Uhm, I can't really tell because I don't know how many
10 nurses -- well, yeah, if you -- if you count all of their
11 nurses in their pool, it has to have been larger than the pool
12 that I had just for myself. So yes, yes.

13 Q. Did they also provide you better quality lists of nurses?

14 A. Uhm --

15 Q. You mentioned before vetted. Can you --

16 A. Like, Vivian. Yeah. RNnetwork did not give me my own
17 personal access to Vivian. They would send it to the front
18 desk. By the time you got a lead, which was a half a lead, the
19 person was gone. Where they -- AHS actually paid for me to
20 have a Vivian account where I could login and talk to the
21 person the second that they messaged me. It would be a full
22 resume, references, documents, everything ready to go. And it
23 was easier, much easier to get that person placed faster.

24 Q. Did you have any need in AHS to use any of the RNN data?

25 A. Data? No, not at all. They had different -- they had

1 different hospitals, different needs. They functioned
2 differently.

3 Q. Now, are you aware that RNN makes an allegation against you
4 from an anonymous caller about certain activities that you did
5 in AHS?

6 A. Yes.

7 Q. Okay. Are you aware that there is an allegation against
8 you that you recruited 80 nurse candidates per week?

9 A. I don't know how that's possible when I had 15 total.

10 Q. So when you say "15 total" --

11 A. 15 total signed contracts.

12 Q. Okay. So that's --

13 A. How is that even humanly possible in five months? The best
14 recruiter in the whole wide world cannot recruit 80 people in
15 five or six months.

16 Q. So is it your understanding then that when somebody comes
17 and says -- and alleges that you would recruit 80 nurse
18 candidates per week, that it's patently falls on its face?

19 A. Correct. I had 90 nurses total at RNnetwork. The top
20 recruiter at AHS had 30 nurses.

21 Q. Okay. So in your nurse recruiting experience, there's not
22 a single person on this planet that can recruit 80 nurses per
23 week, correct?

24 A. Correct.

25 Q. Now, while you're working for AHS, did you solicit any

1 nurses that were working for RNN?

2 A. No, but a lot did come to me and text me and want to work
3 with me.

4 Q. Okay. So you're saying you had RNN nurses that reached out
5 to you that they want to work with you, but you did not solicit
6 any of those?

7 A. Correct.

8 Q. Okay. Now, when somebody reached out to you and you knew
9 that that person comes from RNN, what would be your response?

10 A. I redirected them and asked them to just keep in touch and,
11 you know, tell me how their assignment is going and eventually
12 we will connect one day.

13 Q. Now, was your intent that when you say "eventually we will
14 reconnect one day" to reconnect after a year when your
15 non-solicitation, noncompete agreement is over with RNN?

16 A. Correct. And even if they had a travel partner that never
17 worked with RNN, I could have placed the travel partner, and I
18 didn't. I said go take an assignment somewhere else and we'll
19 reconnect after my noncompete is over.

20 Q. So when you got an RNN -- not only you did not solicit RNN
21 nurses, but if you got somebody from RNN that reached out to
22 you, you actively refused to accept them into -- to work for
23 AHS, correct?

24 MS. SCHWARTZ: Objection. Leading.

25 THE COURT: The whole thing has been leading, both

1 sides. So I'll allow it because, look, here's the thing. We
2 don't have much time left today. So after a few questions, I
3 kind of have to figure out how much longer we have and figure
4 out how to accommodate you all. So just go ahead, Mr. Hecht.

5 BY MR. HECHT:

6 Q. Now, Ms. Shafer, you saw there was a list of about -- there
7 was an email introduced into evidence with a list of about nine
8 nurses that alleged anonymous caller told RNN that you
9 recruited for AHS?

10 A. Yes.

11 Q. Okay. Now, did you recruit those nine nurses?

12 A. Uhm, not all of them. The list is not correct.

13 Q. So some of those nurses you never even recruited?

14 A. Correct.

15 Q. And some of those nurses you actually sent them back to
16 RNN?

17 A. Correct.

18 Q. And there was one nurse you mentioned, a Newstadt? Jordan
19 Newstadt, was that a name?

20 A. Yes.

21 Q. That you were aware that he worked for RNN, but he worked
22 for RNN more than three years prior to that?

23 A. Correct.

24 Q. And it was your understanding that because such a long time
25 has passed since they worked for RNN, you're no longer in your

1 noncompete, violating a non-solicitation at that point,
2 correct?

3 A. Correct.

4 Q. Now, Ms. Shafer, we talked before about what you did for
5 the last 17 years that you were a nurse recruiter, correct?

6 A. Correct.

7 Q. Is it fair to say that the only job that you know right now
8 that you can excel in is being a nurse recruiter?

9 A. Correct.

10 Q. Is it fair to say that you cannot earn a decent income if
11 you don't do nurse recruiting?

12 A. Correct.

13 Q. Okay. Now, before when the RNN attorney examined -- direct
14 examined you, she asked you whether you can do some other types
15 of recruiting, correct?

16 A. Correct.

17 Q. And your answer was that it would be a lot less money,
18 correct?

19 A. And a lot of training, you know, and who knows if I would
20 be good at it.

21 Q. Okay. So there is no easy path for you to dive into a new
22 recruiting field at this point?

23 A. Correct.

24 Q. Okay. Now, Ms. Shafer, are you the primary breadwinner in
25 your household?

1 A. Yes.

2 Q. How many people rely on you?

3 A. Four.

4 Q. Can you itemize who those four people are?

5 MS. SCHWARTZ: Objection, Your Honor. This is not
6 relevant to the --

7 THE COURT: Sure. So what's the relevance, et. al, in
8 terms of the issues before the Court whether she has to work
9 hard to get a new job or a new line of work?

10 MR. HECHT: Your Honor, we just think it's relevant
11 about the harm that it's causing to her. And one of the
12 elements of balancing the harms in an injunction is to balance
13 the harms between both parties, the harm it will cause her for
14 not being able to work versus the harm it will cause them for
15 enforcing a noncompete. So we believe it is relevant to
16 emphasize what type of harm it will cause her.

17 THE COURT: I think, though, if that were really what
18 they meant by balancing the harms, wouldn't that apply in every
19 restrictive covenant case across the board? I mean, basically
20 a restrictive covenant is you can't work in this particular
21 line of work in this jurisdiction for this time frame. So that
22 harm would exist for literally everybody, right?

23 MR. HECHT: The Court can take -- there's no limit in
24 the law that says that certain types of harm the Court may not
25 consider. So we believe the Court may consider every possible

1 harm.

2 THE COURT: I guess my question is, your argument,
3 going back to opening, was she's not specialized. She's just a
4 regular, common worker. And now you're saying there's no other
5 work she can do. So it's a little bit -- I'm a little confused
6 in terms of that argument, but I'll let you make it. I'll let
7 you have a few questions.

8 Look, I think we only have ten minutes left today,
9 though. So I think what we'll do is you go as far as you can,
10 and then we'll -- I'm going to bring you back tomorrow.

11 MR. HECHT: Your Honor, I think we're done at this
12 point.

13 THE COURT: But Ms. Schwartz still has questions, I'm
14 sure. So ask your questions and then we'll figure out where we
15 are. But I'll give you a little bit of leeway on that. But I
16 just -- you know, as far as relevance, it's marginal I would
17 say, but go ahead.

18 MR. HECHT: Okay.

19 BY MR. HECHT:

20 Q. So Ms. Shafer, the last question we asked was you said that
21 there are four people dependent on you and I asked who are
22 those four people.

23 A. My twins, my husband, and my mother-in-law.

24 Q. Okay. Ms. Shafer, are you currently employed?

25 A. No.

1 Q. What happened to AHS?

2 A. They let me go because of this legal mess. I guess
3 RNnetwork contacted them.

4 Q. Is it your understanding that AHS terminated your
5 employment because of this lawsuit?

6 A. Yes, 100 percent.

7 MR. HECHT: I believe, Your Honor, we're done at this
8 point.

9 THE COURT: You're sure? I'm not trying to cut you
10 off, but you're done?

11 MR. HECHT: Yes.

12 THE COURT: Okay. Redirect, what do you think?

13 MS. SCHWARTZ: I would like to try to quickly just
14 move through the redirect just hitting the high points so we
15 don't have to come back another day.

16 THE COURT: Okay.

17 MS. SCHWARTZ: I would suggest that because of the
18 time crunch that we're in, unless there's something specific
19 Your Honor has to ask, we shouldn't do long, lengthy closings
20 because I don't want to have to come back just to do a closing
21 argument.

22 THE COURT: Here's the thing. Why don't you do your
23 redirect. I don't really need to hear closings from you both
24 since close of business 11/16 you all are going to be
25 submitting proposed findings of fact and conclusions of law.

1 You can separately, if you want, give me a few pages of what
2 you would say in closing, but I think you can kind of roll it
3 all into that document.

4 MS. SCHWARTZ: I agree.

5 THE COURT: Is that fine with you, Mr. Hecht?

6 MR. HECHT: Yes, Your Honor. That's fine.

7 THE COURT: Okay.

8 MR. HECHT: I would just ask if the Court can give us
9 a little guidance about what areas mostly to address in those
10 documents.

11 THE COURT: Well, it's interesting because one thing
12 that we really haven't talked about is this Florida versus Utah
13 law thing. We haven't talked about it at all. So I guess
14 really in that sense there's no evidence that needs to be
15 offered that would suggest that Utah law applies or Florida law
16 applies. So I do think you all need to speak to that.

17 And then I guess one question I have, and maybe if you
18 want to roll it into whatever you were going to ask,
19 Ms. Schwartz, but here's my ultimate question. How many
20 recruiters are there -- I'm just kind of throwing it out there.
21 How many nurse recruiters are there at RNnetwork globally?

22 MS. RUFFY: Right now today, 60. A little over 60.

23 THE COURT: 60, six zero?

24 MS. RUFFY: Yes, Your Honor.

25 THE COURT: Okay. Do all 60 have access to that

1 document of the 2,500 nurses?

2 MS. RUFFY: Yes.

3 THE COURT: And fair statement that of the 60,
4 Ms. Shafer was in the top three?

5 MS. RUFFY: At the time she left, yes.

6 THE COURT: Okay. All right. So that just at least
7 gives me something to go on in terms of that.

8 Ms. Schwartz, if you have five minute's worth of
9 questions, that would be great.

10 MS. SCHWARTZ: Yes. I will do my best, Your Honor,
11 just to hit the high points.

12 THE COURT: Sure.

13 MS. SCHWARTZ: And I know Your Honor did not want to
14 talk about this, and I'm not going to get into it, but since
15 Ms. Shafer did read --

16 THE COURT: Tell me what it is. Is it the reason for
17 termination thing?

18 MS. SCHWARTZ: I just had one question on that.

19 THE COURT: Yes, you can -- just get into what you
20 have to.

21 REDIRECT EXAMINATION

22 BY MS. SCHWARTZ:

23 Q. Ms. Shafer, you testified that you believed the reason you
24 were terminated from RNnetwork is because you requested an
25 accommodation for your condition, right?

1 A. Uh-huh.

2 Q. What was that accommodation?

3 A. Uhm, well, I was asking them to meet with me to figure out
4 what it would be, what a fair accommodation would be given my
5 psychological disease. What I had before, the type of
6 manager -- actually, director years prior was working
7 perfectly.

8 Q. Okay. The accommodation you requested was a new
9 supervisor, right?

10 A. It was part of it. But I asked them to -- I definitely
11 wanted a new supervisor and a new director. I asked years past
12 that they would not be assigned to me. Chris, my current
13 manager, I knew personally, on a personal --

14 Q. Just in an abundance of time if you can just answer my
15 question so we can wrap up.

16 A. That was part of it. But I needed to get with them to find
17 out what a good accommodation would be that would work for us
18 all.

19 Q. Okay.

20 A. And I was denied.

21 Q. I'm going to show you Rebuttal Exhibit 3 for the plaintiff.

22 This is an email that you sent to Keela Briles in
23 Human Resources on February 20th, a few days after you -- I'm
24 sorry. Isn't it -- strike that.

25 Isn't it true that this is an email that you sent to

1 Keela Briles?

2 A. Yes.

3 Q. The email was sent February 20th entitled "Rachel Shafer
4 Accommodation"?

5 A. Yes.

6 Q. Okay. And that was written one day after you were given
7 the last performance improvement plan, correct?

8 A. Correct.

9 Q. And this letter, here you are requesting as an
10 accommodation that Scott Schwartz be your new director?

11 A. That was part of it, yes. And I spoke to them.

12 Q. My question is that was your accommodation request, right?

13 A. Part of it.

14 Q. Okay. And then after you submitted this request for a new
15 supervisor, you were given documentation through the Leaves
16 Department to support your ADA accommodation request, correct?

17 A. Correct, but I didn't need a leave. That wasn't the issue.

18 Q. Right. But you were asked to provide documentation to
19 support your accommodation request that your supervisor be
20 changed, right?

21 A. No. She asked me to in general provide documentation from
22 my psychiatrist, but told me you can do it, but it's not going
23 to work so you're wasting your time.

24 Q. I'm going to show you what's being marked as Rebuttal
25 Exhibit 4.

1 A. And that was verbally.

2 Q. There is no question.

3 THE COURT: Mr. Hecht, any objection to Rebuttal 3 and
4 Rebuttal 4?

5 MR. HECHT: I would only object on the basis of
6 relevance here. The Court has guided the parties to just raise
7 the issue that exists, but not to go into details. So
8 apparently she is trying to go into detail about that case. We
9 have a whole case that's pending, and there's documents filed
10 by all parties with tons of exhibits, and this doesn't
11 represent an accurate detail about a case. So either -- if
12 she's going to introduce these exhibits, then we want to
13 introduce the entire case file. Or better to just abide by the
14 Court's guidance to just mention that such a case exists,
15 that's what we did on direct, and move on.

16 MS. SCHWARTZ: I just have one question about this,
17 and it's because she opened the door to it during the direct.

18 THE COURT: See, that's the thing is, I do think some
19 questions were asked on what we'll call cross related to this.

20 So go ahead, Ms. Schwartz.

21 (Received in evidence Plaintiff's Rebuttal Exhibit(s) 3
22 and 4.)

23 BY MS. SCHWARTZ:

24 Q. Rebuttal Exhibit 4 is an email to you dated March 13th
25 entitled "ADA Accommodation Request," right?

1 A. Yes.

2 Q. And according to this email, it states that the ADA
3 paperwork was due back on March 10 and that your request was
4 being closed out because you never turned in the documentation,
5 right?

6 A. Correct, because she on the phone told me don't even waste
7 your time. If you're going to go and get it done, nothing's
8 going to be done. So too bad, so sad.

9 Q. And it's your testimony you were fired because you asked
10 for a new supervisor? Your accommodation request, right?

11 MR. HECHT: Objection. Misstating her testimony.

12 THE COURT: She can say, no, that's not her testimony
13 then.

14 THE WITNESS: No.

15 BY MS. SCHWARTZ:

16 Q. I want to direct your attention back to Defendant's
17 Exhibit 3, which is the email from Mary Coombs dated May 1 with
18 the commission report.

19 If you look at page 5, you'll see a page of the gross
20 margin details. Do you see that?

21 A. Yes.

22 Q. Now, do you remember testifying that you did not need to
23 use the working and awaiting spreadsheets you took because
24 you've memorized the shifts, specialties, pay and, quote,
25 things that nurses liked so you didn't need to take it?

1 A. That part. But I didn't have 90 names memorized to where I
2 can match it to my commission. But, yes, when you get to know
3 someone, you know what shift they like, where they like to go,
4 what they like, what ratio, do they live in RVs.

5 Q. And for how many nurses did you memorize all that
6 information?

7 A. Most of them.

8 Q. Would you agree that you should at least know that
9 information for the most recently placed nurses that you had?

10 A. Yes, but that's not the information that I used to compare
11 to my commissions.

12 Q. So if you look at this commission report --

13 A. What I'm using on this case --

14 Q. -- 18 lines down you will see Amanda Fobar, correct?

15 A. Correct.

16 Q. And this is reflecting that you had placed Amanda Fobar who
17 was actively working in March of 2023, correct?

18 A. Correct.

19 Q. And yet you testified, when I showed you the AHS agreement
20 that you gave to Ms. Fobar, that you didn't even recall that
21 she was someone who you had place with RNnetwork. Do you
22 remember that testimony?

23 A. Yes, she went by Mandy and I don't have all 90 people
24 memorized, especially since there was a large gap of me looking
25 at these nurses and dealing with them.

1 Q. So you couldn't remember Ms. Fobar's first name, even
2 though you had recently placed her, but it's your testimony
3 that you didn't need to keep those working and awaiting sheets
4 because you had all of those columns memorized?

5 A. Not every single column. I said what they preferred, their
6 likes, which is -- you don't even need to put it on that
7 report.

8 Q. So you testified that you needed those working and awaiting
9 spreadsheets to see in one place who was coming up and whose
10 contract was ending so you knew who to touch base with. That
11 was your testimony, right?

12 A. Correct.

13 Q. That's what you used those spreadsheets for, correct?

14 A. For when I was at RNnetwork. But if I'm at another
15 company, there's no number or anything to contact them for,
16 with.

17 Q. But on those spreadsheets, unlike the commissions reports,
18 you have the email addresses for each of the nurses, right?

19 A. And they don't respond to emails.

20 Q. "Yes" or "no." You have the email addresses on the working
21 and awaiting spreadsheets but not the commission reports,
22 correct? Yes?

23 A. It's kind of not correct because my assistant cut them out
24 when she made these small, and emails were not on there. So I
25 didn't even know the emails were on there.

1 Q. When Mary Jacobs sent you the commission report, it doesn't
2 contain a single email address on here for any of the nurses,
3 right?

4 A. Correct.

5 Q. And on the working and awaiting spreadsheets there are
6 email addresses for all of the nurses, correct?

7 A. Not the version I had.

8 Q. Just to be clear, the version you had is the one your
9 lawyer showed on the screen, correct?

10 A. Where it was all cutoff? Correct. It's exactly what my
11 assistant compiled for me.

12 Q. So you testified that the working and awaiting spreadsheets
13 were emailed to you every week; is that right?

14 A. Yes.

15 Q. And you testified that you forwarded them to your personal
16 email address so that you could print them out and use them,
17 right?

18 A. Correct.

19 Q. Why is it that the only working and awaiting spreadsheets
20 that showed up in your sent box and that are in your possession
21 electronically are the week ten and week six spreadsheets?

22 A. I don't know, but I emailed and printed every single week
23 because that's how I worked.

24 Q. So the ones that we looked at you emailed to yourself on
25 March 9th. Did you email any working and awaiting spreadsheets

1 to yourself on March 2nd?

2 A. I don't remember the dates, but I'm telling you it was
3 usually every Monday I emailed and printed them to myself. And
4 if I forgot, then I would do it a couple days later.

5 Q. You also didn't email any to yourself on March -- the week
6 after March 9th, on March 16th, did you?

7 A. I did.

8 Q. You did?

9 A. Every week I printed them out and used them.

10 Q. Then you should still have all of these working and
11 awaiting spreadsheets in your Gmail account, correct?

12 A. We'll have to see.

13 Q. Okay. We'll see.

14 I want to direct your attention to Defendant's
15 Exhibit 4, which is the email from Keela Briles to you dated
16 April 7th.

17 A. Which number? I'm sorry.

18 Q. Defendant's Exhibit 4. Your lawyer introduced it dated
19 April 7th from Keela Briles to you about Samantha Carlson.

20 A. Yes.

21 Q. So at the bottom the page it says, "A manual adjustment of
22 \$9,456 in gross margin will be included in the 4/28 check."
23 That's not money that was going to you, is it?

24 A. I got paid. I got paid for whatever mistake this was, yes.

25 Q. Because it's of the gross margin, isn't it true that you

1 would only get 8 percent of that amount?

2 A. I don't recall what the amount was or what part of this
3 error it was.

4 Q. But you know how the gross margin works --

5 A. Yes.

6 Q. -- in your industry, right?

7 A. Right.

8 Q. And so you know that you weren't entitled to the gross
9 margin, which is RNnetwork's profits, right?

10 A. Okay.

11 Q. Is that right?

12 A. Right.

13 Q. So you were paid \$750 for this --

14 A. I would have check in my bank statement. There's other
15 errors too. There's other errors, payment errors too.

16 Q. I want to direct your attention to Defendant's Exhibit 5,
17 which is the Griffin text message.

18 So Griffin is a nurse that you worked with at
19 RNnetwork; is that right?

20 A. A long time ago.

21 Q. And he sent you a text message to your use personal cell
22 phone --

23 A. Correct.

24 Q. -- showing you this email; is that right?

25 A. Uh-huh.

1 Q. Yes?

2 And so you still retain Geffen's personal contact
3 information in your cell phone today?

4 A. Yeah. Obviously, he texted me and then I put him in --
5 back in my phone. And he's actually I think permanent now.

6 Q. Now, you testified after -- strike that.

7 He's permanent now through?

8 A. Permanent means not travel nursing.

9 Q. So you testified when your lawyer showed you this document
10 that you, quote, let all the nurses know who I worked with at
11 RNnetwork, that you were no longer with the company.

12 MR. HECHT: Objection. I believe she is misquoting.

13 THE COURT: Sure. If you can rephrase.

14 BY MS. SCHWARTZ:

15 Q. Do you recall testifying when your lawyer showed you this
16 text message that you then let the nurses at RNnetwork -- let
17 the nurses with whom you worked at RNnetwork that you were no
18 longer employed by RNnetwork?

19 A. I posted it on my Facebook.

20 Q. Did you contact anybody beyond just posting it on your
21 Facebook?

22 A. Uhm, yes, I did contact some people and let them know I'm
23 no longer with the company.

24 Q. When you say you "contacted some people," you're referring
25 to nurses?

1 A. Yes, if they -- yes, if they were in my cell phone and I
2 knew that they were a nurse, I let them know I'm no longer with
3 RNnetwork, and if they -- if RNN is sending them an email from
4 me, to please forward it to me, which they did.

5 Q. Now, you testified earlier that you don't like to have
6 conversations so all your communications are in text messages
7 and emails. Do you remember that testimony?

8 A. Yes. And RNnetwork employees too.

9 Q. Okay. So when you let all of these nurses know that you
10 were no longer at RNnetwork, did you do that in text message or
11 emails?

12 A. Text message and Facebook.

13 Q. Okay. And did you have phone conversations with any of
14 these nurses?

15 A. Not that I recall.

16 Q. And in your Facebook Messenger and text messages with these
17 nurses did you tell them that you were at AHS Staffing?

18 A. Yes.

19 Q. And at that point did they contact you at AHS Staffing for
20 placements?

21 A. Most of them are assignment, so no. Or some of them were
22 even permanent. Some of them are nurse practitioners, and you
23 guys messaged them.

24 Q. Okay. And just my last point. You were asked questions
25 about had you been told in RNnetwork's cease and desist letter

1 that had you had documents that needed to be returned, you
2 would have returned them?

3 A. Correct.

4 Q. I would like to show you what's been marked as Plaintiff's
5 Exhibit 28.

6 MR. HECHT: Objection, again. I think she's
7 misquoting the particular testimony.

8 THE COURT: I agree. But if you just want to try to
9 wrap it up. His word wasn't "return." His word was "destroy."
10 BY MS. SCHWARTZ:

11 Q. So I'm showing you the cease and desist letter that was
12 sent to you on July 14, 2023. Do you recognize this document?

13 A. Yes.

14 Q. I want to direct your attention to the second paragraph on
15 the first page in the second sentence. Do you see where it
16 says, "CHG also had learned that you improperly retained
17 confidential client and provider contact information that you
18 acquired during your employment"?

19 A. Yes, and I didn't know what that meant.

20 Q. Okay. And then on the second page under subsection (b) in
21 the second paragraph do you see where it says, "This means not
22 only are you required to keep confidential information, such as
23 client names, provider names, and contact information, among
24 other things confidential, but that you cannot use this
25 information to further your interests at AHS or to harm CHG

1 subsequent to your separation from the company. The fact that
2 you have retained client and provider contact information and
3 have been using it to place providers you worked with at CHG
4 through AHS is a direct breach of your confidentially
5 agreement." Did you read that in this letter when you received
6 it?

7 A. Yes.

8 Q. And was it clear at that point that CHG knew you retained
9 the client and provider contact information?

10 A. No, I didn't know what you were talking about. Again, my
11 working and awaiting did not have email addresses, and I use it
12 to compare my compensation, and it's given to us every week.

13 Q. And you testified you retained provider -- nurses' contact
14 information in your Gmail account and in your personal cell
15 phone, correct?

16 A. A lot of them have become my real -- my real life friends.

17 Q. Okay. But at this point you knew that this contact
18 information that you had retained pertaining to the nurses that
19 work with RNnetwork was information that CHG believed you
20 needed to give back, right?

21 A. So my referral is their's?

22 Q. My question is you understood when you got this letter that
23 you needed to return this information that you kept?

24 A. I didn't know what information they wanted to return or
25 else I would return it.

1 Q. Okay. As you sit here today --

2 A. Or destroy.

3 Q. As you sit here today, will you now return the information
4 and destroy it from your cell phone and from your email
5 account?

6 A. Yes.

7 Q. Including the nurse provider email addresses and cell phone
8 numbers that you are maintaining in your personal cell phone
9 right now?

10 A. Yes.

11 Q. And you will also return and destroy all of the contact
12 information and documents from RNnetwork that reside in your
13 cloud storage account for your Gmail address?

14 A. Yes.

15 Q. And will you agree to do that through a mutual third party
16 forensic examiner who is an expert in retrieving and wiping
17 that information?

18 A. Whatever my lawyer agrees to.

19 Q. But you have no problem returning it, correct?

20 A. Correct.

21 MS. SCHWARTZ: I have no further questions.

22 THE COURT: Mr. Hecht, anything?

23 MR. HECHT: No, Your Honor.

24 THE COURT: Okay.

25 (Witness was excused.)

1 THE COURT: All right. Then a couple things came up
2 in terms of the questioning there. Ms. Shafer agreed to all of
3 those remedies, so I think the other thing you have to address
4 now is whether there needs to be an injunction.

5 Second thing is her question that she just asked is a
6 pretty important one, I think, in terms of everyone's
7 understanding. She said, "My referral is there's?" And so I
8 would like some guidance on that. Because what she's saying is
9 she's getting referrals in, she places them over the course of
10 years through RNN. Do they then become RNnetwork's property or
11 do they remain hers? And that would be something else I would
12 like to know.

13 MS. SCHWARTZ: Okay. So you don't want us to argue
14 that now?

15 THE COURT: No, it's because that five minutes was 20
16 minutes --

17 MS. SCHWARTZ: Sorry.

18 THE COURT: -- so we have to kind of move on out of
19 here.

20 And then I'm looking forward to your submissions close
21 of business 11/16.

22 It was great having you all in court. These
23 restrictive covenant cases are really tough. And, you know,
24 like I always say, they're like a corporate divorce. They're
25 people that used to get along and like each other and work

1 together that now just can't get along, you know. And so I
2 appreciate all the hard work that both sides put into it.

3 Be safe, look forward to seeing you in person in the
4 future, and have a nice cruise.

5 MR. HECHT: Thank you, Your Honor.

6 MS. SCHWARTZ: Thank you, Your Honor.

7 MR. HECHT: Can the Court also give guidance like how
8 long after the submission the Court will issue an order?
9 Because --

10 THE COURT: That I can't answer. And I'll tell you
11 why. We would love to do everything as quickly as possible.
12 And just based on volume and all, it's difficult sometimes.
13 But I can only say as quickly as possible. You know, because
14 it's important, you all have waited a while, you all need
15 resolution, so, you know, we'll digest it. Not before
16 Thanksgiving certainly, but we'll figure it all out.

17 MS. SCHWARTZ: There is one more matter, Your Honor,
18 and I completely forgot.

19 THE COURT: Okay.

20 MS. SCHWARTZ: With regard to the affidavit of
21 Mr. Hester.

22 THE COURT: Yes.

23 MS. SCHWARTZ: I do have one exhibit that I would like
24 you to consider if you're going to be considering that
25 affidavit, and it is a transcription of the voice mail

1 recording. It's a screenshot of what appeared on the computer
2 showing Marc Hester's name, number, and word by word what it is
3 he stated on August 9, which is the date of Ms. Briles
4 memorandum. And given Mr. Hester's affidavit stating he has no
5 recollection, this provides further evidence that the call did
6 occur.

7 And I would like to ask the Court to take judicial
8 notice that the Port Orange area code is 386, which is what is
9 in Mr. Hester's declaration.

10 THE COURT: I'm happy to take that. Again, I don't
11 have any idea whether Mr. Hester just doesn't remember, whether
12 somebody else used his phone. You know, certainly Ms. Briles
13 isn't going to be able to say she knows his voice or what he
14 looks like or anything like that. But I'll take it. I'll
15 review the affidavit and this document as well.

16 In all candor, it would be really relevant to me if
17 this were a criminal case with a police officer saying that he
18 based his reasonable suspicion or probable cause based on that
19 anonymous tipster. It's not all that relevant to me --

20 MS. SCHWARTZ: Okay.

21 THE COURT: -- in terms of this, but please pass it
22 forward.

23 I do have to tell you, though, you all need to kind of
24 look at your exhibits and make sure Val has copies of all of
25 them before you leave because that's the record really. So if

1 you can do that, that would be great.

2 Okay. Anything else before I tell Karl to hit the off
3 button?

4 MS. SCHWARTZ: None from the plaintiff, Your Honor.

5 THE COURT: Mr. Hecht, anything at all?

6 MR. HECHT: I'm sorry?

7 THE COURT: Anything at all before I tell Karl to sign
8 off? You were about to say something about guidance.

9 MR. HECHT: No, I was just asking about a time frame,
10 when we can expect an order, but the Court answered that.

11 THE COURT: I'll do the best I can, really, you know.

12 MR. HECHT: Thank you.

13 THE COURT: Okay. Thanks, everyone.

14 MS. SCHWARTZ: Thank you.

15 MR. MAYA: Thank you.

16 (Proceedings concluded at 5:16 p.m.)

17 C E R T I F I C A T E

18 I, Karl Shires, Registered Merit Reporter and Federal
19 Certified Realtime Reporter, certify that the foregoing is a
20 correct transcript from the record of proceedings in the
21 above-entitled matter.

22 Dated this 9th day of November, 2023.

23 
24 _____
25 Karl Shires, RMR FCRR

DE 75-1

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 0:23-CV-61703-AHS**

CHG MEDICAL STAFFING, INC.,
Plaintiff,

-VS-

RACHEL SHAFER et al.,
Defendants.

_____ /

AFFIDAVIT OF RACHEL SHAFER

1. My name is Rachel Shafer.
2. During this lawsuit, I was made aware that the excel sheets titled Working & Awaiting, were sent to me in a filtered format, and can be modified to see a larger list of nurses, including nurses that were not assigned to be during my work for RN Network.
3. After I was made aware about the full extent of the content of these files, I deleted all the Working & Awaiting files in my control or possession.
4. I also became aware that RN Network claims I completed a final interview, and expect to start a new position at Nightingale Nurses. This statement is not true.
5. Further affiant sayeth naught.

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature: 
Rachel Shafer (Nov 20, 2023 4:58 EST)

Date: 20/11/2023

DE 86

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-61703-CIV-SINGHAL

CHG MEDICAL STAFFING, INC.
d/b/a RNNETWORK, a Delaware
Corporation,

Plaintiff,

v.

RACHEL SHAFER, an individual,
LISLEY ROSSI, an individual,
AHS STAFFING, LLC, an Oklahoma Limited
Liability Company,

Defendants.

ORDER

THIS CAUSE is before the Court upon Plaintiff's Motion for Leave to File Amended Proposed Findings of Facts and Conclusions of Law ("Motion") (DE [78]). In its Motion, Plaintiff CHG Medical Staffing ("Plaintiff" or "CHG") requests leave to amend its proposed Findings of Facts and Conclusions of Law (DE [74]) to address key evidence produced for the first time in Defendant Rachel Shafer's ("Shafer") Proposed Findings of Fact and Conclusions of Law and Affidavit in support of same (DE [75]). For the reasons set forth below, Plaintiff's Motion is denied.

When a party drafts and then eventually submits proposed findings of facts and conclusions of law, it is not an opportunity to introduce new evidence or fashion new arguments. Instead, it presents an opportunity for the parties to synthesize all the arguments and evidence presented in their motions and at the evidentiary hearings. As such, when reviewing the parties proposed findings of fact and conclusions of law (DE [74]) and (DE [75]), the Court will only review and consider evidence or arguments actually

presented in the parties' motions or at the evidentiary hearings held on October 31, 2023 and November 7, 2023. The Court can therefore deny Plaintiff's Motion as moot because it cannot consider the new evidence and arguments that Shafer raised in her Proposed Findings of Fact and Conclusions of Law and Affidavit.¹

All this being said, the Court is extremely concerned about the destruction of evidence relevant to this case. Though Plaintiff, in its request for preliminary injunctive relief, is asking for the destruction of any confidential information or trade secrets improperly in Shafer's possession, the request was to do so "pursuant to a forensic protocol by an agreed upon third party forensic expert." (DE [12] at 21). Destruction is typically requested and performed in this manner for many reasons. First, and most obvious, is so that the party seeking destruction can be sure that the information is actually deleted. If it comes to the point that litigation is necessary, the level of trust between the parties is often at an all-time low and it is unfair to require a party to simply trust that the other party deleted the information in question. Moreover, forensic experts are better equipped to ensure that everything has in fact been deleted and wiped from the other party's computers and devices. Laypersons are often not intricately familiar with how computers save information, and it is possible that one thinks everything has been deleted, when they in fact left traces of it somewhere on their device or in the cloud.

The second reason destruction is typically performed by forensic experts is because very often the metadata surrounding where the confidential information and trade secrets is located on a party's device is relevant to the case. As Defendant does not seem to realize in their response to Plaintiff's Motion (DE [83]), Plaintiff's request for preliminary injunctive relief is just one of its many requested forms of relief in this case.

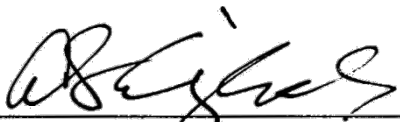
¹ The Court can, and must, consider this evidence only to the extent that it moots any portion of the need for the Court to impose a preliminary injunction.

Plaintiff's Complaint (DE [1]) contains eight other claims against the Defendants in this case. The Complaint also requests damages in addition to the injunctive relief that Shafer thinks she has mooted. Where the documents that Shafer claims she deleted were located, what the actual documents were, and whether the data could have been transferred to any other persons or locations, among other missing facts could be relevant to the rest of Plaintiff's claims or to damages. To attempt to obtain this potentially lost information and to ensure that Shafer does not tamper or destroy any other evidence relevant to this case, the Court orders Shafer to turn over her personal devices to an agreed upon third party forensic expert so that they can be imaged, searched, and wiped of all potential confidential information and trade secrets.² Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff's Motion for Leave to File Amended Proposed Findings of Facts and Conclusions of Law (DE [78]) is **DENIED**.

It is **FURTHER ORDERED AND ADJUDGED** that, within seven (7) days of entry of this order, Shafer is to disclose her personal devices (computers, computer hard drives, or memory devices and all other Devices in her possession that reasonably could contain the confidential information and trade secrets at issue³) to an agreed upon third party forensic expert so that they can be imaged, searched, and wiped of all potential confidential information and trade secrets. *The failure for Shafer to do so will result in sanctions without further warning.*

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 19th day of December 2023.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

² Shafer should have no problem conforming to this order since she agreed, both at the hearing and by her own actions, to destroy this information in the first place.

³ This includes any smart phones, tablets, desktop computers, laptop computers, and disks, memory files, flash drives, hard drives, etc.

Copies furnished counsel via CM/ECF

DE 96

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-61703-CIV-SINGHAL

CHG MEDICAL STAFFING, INC.,

Plaintiff,

v.

RACHEL SHAFER *et al.*,

Defendants.

ORDER

THIS CAUSE is before the Court upon Defendant Rachel Shafer's Motion for Clarification on Court Forensic Expert Order ("Motion") (DE [89]). In its Motion, Defendant Rachel Shafer ("Defendant" or "Shafer") seeks clarification on the Court's December 19th Order where it required Shafer to "disclose her personal devices to an agreed upon third party forensic expert so that they can be imaged, searched, and wiped of all potential confidential information and trade secrets." (DE [86] at 3). Specifically, Shafer is seeking clarification on the scope of Shafer's personal devices to be disclosed to a forensic expert, the scope of the forensic examination, and which party should bear the cost to comply.

The purpose of the December 19th order was to ensure that *any* trade secrets and confidential information in Shafer's possession be forensically preserved and then wiped from her possession. Shafer wrote in her affidavit attached to her proposed findings of fact and conclusions of law that she "deleted all the Working & Awaiting files in my control or possession." (DE [75-1]). Shafer testified that she routinely emailed the Working & Awaiting spreadsheets to her personal email account. (DE [63] at 84:8-13). To ensure

that all Working & Awaiting files are deleted and wiped from her possession, the Court orders that her email address must also be imaged, searched, and then wiped.¹

The scope of the forensic examination should also extend to January 2023. Shafer testified that she emailed herself W&A spreadsheets between 2017 to 2023 on a weekly basis. (DE [63] at 84:8-13; 85:16-22). Therefore, whether Shafer currently has any W&A spreadsheets (and what information she intentionally deleted), where she transferred them, and what other RNN information she wrongfully possesses can only be determined by a search of Shafer's email accounts. To get a complete picture of what Shafer did, Plaintiffs could have demanded that the forensic analysis date back to 2017. Plaintiff's request, at this stage, to limit the analysis to January 2023 forward with search terms and a forensic protocol to be agreed upon is therefore more than reasonable.

Finally, it is plainly clear that Shafer should bear the cost to comply with the Court's December 19th order. The parties are in this position because of Shafer's actions. It neither seems fair, nor logical, to then require Plaintiff to bear the cost to attempt to recover the evidence that Shafer potentially destroyed. Accordingly, it is hereby


ORDERED AND ADJUDGED as follows:

1. Shafer's email address rachel.shafer@gmail.com and cloud storage account associated with this email is to be forensically searched, imaged, and then wiped. The temporal scope of the forensic examination should be from January 1, 2023, to the present, with search terms and a forensic protocol for the forensic expert to follow to be agreed upon by the Parties.

¹ Though the Court appreciates Plaintiff's concern about Shafer apparently forwarding RNN information to rachelchap96@gmail.com, it cannot order imaging of an email address not in Shafer's possession. That said, it finds Shafer's initial explanation—"an accidental email erroneously sent to an incorrect address"—to be inadequate. (DE [92] at 2 n.2). While emails can get sent to the wrong person or an unintended recipient, random email addresses do not just appear in the "To" line of a draft email. Shafer is therefore required to provide more information as to who this email belongs to if it does not belong to her.

2. Within ten (10) days of entry of this Order, Shafer must provide Plaintiff with sufficient detail showing that the email address rachelchap96@gmail.com does not belong to her and the steps she took to discover to whom it belongs.
3. Shafer is ordered to pay the costs associated with any forensic examination stemming from the Court's December 19th order (DE [86]) and this Order.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 1st day of February 2024.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF

DE 101

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-61703-CIV-SINGHAL

CHG MEDICAL STAFFING, INC.,

Plaintiff,

v.

RACHEL SHAFER et al.,

Defendant.

ORDER

THIS CAUSE is before the Court upon Defendant Rachel Shafer's ("Defendant" or "Shafer") Motion to Stay Pending Appeal ("Motion to Stay") (DE [99]). In the Motion to Stay, Shafer moves pursuant to Fed. R. App. P. 8(a)(1) for a stay of the Court's prior rulings on Plaintiff's Motion for Leave to File Amended Proposed Findings of Facts and Conclusions of Law (DE [86]) and the subsequent order on Defendant Shafer's Motion for Clarification (DE [96]). To put it more succinctly in Shafer's terms, she wishes to "stay the injunction pending appellate review" of the Court's two prior orders. (DE [99] at 2).

To make a point of clarification before reaching the merits of Shafer's Motion to Stay, the Court has yet to issue an order on Plaintiff's preliminary injunction motion.¹ As the Court's two prior orders make clear, the sole matter at issue in those orders—and the purpose of ordering a forensic analysis and requiring Shafer to pay for it—is because, during the pendency of a litigation, Shafer took it upon herself to delete key evidence relevant to this case. The Court's prior orders were merely trying to preserve that evidence, evidence that Plaintiff is also entitled to receive during discovery. In other

¹ Defendant Rachel Shafer also filed a Notice of Appeal, where she stated that she is appealing the portions of the Court's orders "related to injunctive relief." (DE [97]).

words, Shafer conflates two completely different issues. On the one hand, she attempts to conceal or destroy evidence. On the other hand, she asks for appellate review of a not yet decided issue that ultimately will be dependent upon the evidence she has concealed or destroyed.

That said, Shafer has nevertheless filed an appeal of the Court's prior orders and now also seeks a stay of those orders pending the completion of the appeal. But *again* the discovery orders are separate and apart from the petition for injunctive relief. Courts generally enjoy broad discretion in deciding how best to manage the cases before it. See *Johnson v. Bd. of Regents of Univ. of Georgia*, 263 F.3d 1234, 1269 (11th Cir. 2001) (“[The Eleventh Circuit] accord[s] district courts broad discretion over the management of pre-trial activities, including discovery and scheduling.”). This discretion includes whether to issue a stay pending the appeal of one of its rulings. See *id.* In light of this discretion and because Shafer has not put forth a compelling case for a stay, the Court denies her request for one.²

In the Motion for Stay, Shafer argues that district courts should consider four factors when considering whether to issue a stay. (DE [99] at 2). Those factors are “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Swain v. Junior*, 958 F.3d 1081, 1088 (11th Cir. 2020). District courts are further required to assign greater weight to the first two factors. *Id.* Here, Shafer's arguments fail across the board.

² The Court understands that Plaintiff RNN has not had an opportunity to respond to Shafer's motion. Because the Court denies Shafer's request and to prevent Shafer from continuously delaying the case any longer, the Court decided to rule on the Motion to Stay expeditiously.

Plaintiff's Motion to Stay begins by arguing that there is a substantial likelihood of success on the merits. This argument is completely misplaced. Even if Shafer were to win the injunction issue, this case has numerous other issues and concealing or destroying evidence that applies to each of the issues has no place in our court system. In stating her position, Shafer relies on functionally the same arguments that she relied on in her Motion for Clarification. *Compare* (DE [89] at 4) (Shafer's Motion for Clarification where she relied on *All Star Recruiting Locums, LLC v. Ivy Staffing Sols., LLC*, 2022 WL 2340997, at *9 (S.D. Fla. Apr. 8, 2022) to show likelihood of success on the merits) *with* (DE [99]) (Shafer's Motion for stay where she also relies on the same case to prove likelihood of success on the merits). Just as the Court found these arguments unpersuasive in the context of the Motion for Clarification, it does so today.³

Another problem with Shafer's arguments is that she argues that she is likely to succeed on the merits of an issue that is not relevant to the Court's orders that she is appealing. As mentioned above, the Court's prior orders did not order any injunctive relief. Instead, it made a series of discovery rulings because Shafer deleted key evidence that the Court is trying to preserve.⁴ Defendant Shafer could therefore have argued that the Court's discovery rulings were improper, that she was likely to succeed on those grounds on appeal, and that a stay is therefore warranted. Instead, as mentioned above,

³ In the Motion to Stay Shafer is really asking the Court to reconsider its prior ruling on the Motion for Clarification. But a motion for stay is not the proper vehicle in which to do so. To the extent the Court were to even reclassify the Motion to Stay as a motion for reconsideration, Shafer's motion would still fall well short of justifying why the Court should in fact reconsider its prior rulings. *See, e.g., Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994) (discussing how motions for reconsideration should only be granted in extraordinary circumstances justified only by a change in law or facts upon which the decision is based). Shafer has presented no change in facts or law that would warrant such a reconsideration.

⁴ To the extent the Court's prior orders overlapped with the forms of relief that RNN requested in its Motion for Preliminary Injunction, it is relevant. Shafer had a duty to preserve electronically stored information ("ESI") in her possession during the pendency of a litigation. *See* Fed. R. Civ. P. 37(e) (enunciating a litigant's duty to preserve ESI and providing district courts remedies if a litigant fails to do so). Shafer, however, failed to do so.

she attempts to argue that she is likely to succeed on the merits of an injunctive relief motion. Since that issue does not underlie the portion of the merits that Shafer would need to demonstrate that she is likely to succeed upon on appeal, her Motion to Stay independently fails for that reason as well.⁵

In addition to not being able to demonstrate that she is likely to succeed on the relevant merits, Shafer has also not demonstrated that she would suffer irreparable harm. Shafer argues that she would suffer irreparable harm in that a forensic analysis would “expose her most intimate personal life matters and interpersonal communications to a complete stranger.” It is not clear if the “complete stranger” Shafer is referring to is the forensic analyst or RNN, but either way her argument is unpersuasive as it ignores a bedrock discovery rule.

It is well known that litigants “may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case” Fed. R. Civ. P. 26(b)(1). In other words, if a party contains documents or evidence that is relevant to the case and it is not burdensome to produce it, the opposing party is entitled to discover it. *See id.* Absent a valid privilege claim or a demonstration that the otherwise discoverable evidence is burdensome and disproportional to the needs of the case, a party is unable to hide behind claims of privacy or intimacy to prevent discovery.⁶

⁵ Though the Court has yet to rule on Plaintiff's Motion for Preliminary Injunction, (DE [12]), “[t]he chief function of a preliminary injunction is to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.” *Robinson v. Attorney Gen.*, 957 F.3d 1171, 1178 (11th Cir. 2020) (quoting *Northeastern Fla. Ch. of Ass'n of Gen. Contractors v. City of Jacksonville*, 896 F.2d 1283, 1284 (11th Cir. 1990)). The Court's order today and its prior orders were decided with the purpose of achieving that same goal and maintaining the status quo so the case could be properly and fairly adjudicated.

⁶ To the extent the otherwise discoverable information contains sensitive or private information, upon a showing of good cause a litigant is able to file the documents under seal or redact certain information so that the public cannot review it. *See Romero v. Drummond Co.*, 480 F.3d 1234, 1245 (11th Cir. 2007).

Here, Shafer argues that a forensic analysis of her emails and personal computer devices would reveal her most intimate details to a stranger. But to the extent it does, it is irrelevant if her emails and personal computer also contain discovery that is “relevant to any party's claim or defense and proportional to the needs of the case.” See *id.* Since nowhere in her Motion to Stay does Shafer claim a privilege or that production is burdensome and disproportional to the needs of the case, Shafer has essentially provided no grounds for why RNN would not otherwise be entitled to discover this information during the discovery phase of this case. And if Shafer would eventually have to disclose this information to RNN, it does not seem possible for Shafer to be able to make a compelling argument today that it would suffer *irreparable* harm by disclosing it now.

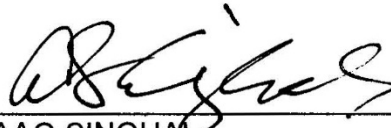
To be sure, the Court’s prior order providing for the forensic analysis does not give the forensic expert carte blanche access to Shafer’s email, computer, and personal effects to go rummaging around. The order was tailored so that the scope of the examination would no greater than necessary for what RNN would need to ensure that Shafer no longer possesses the Working and Awaiting files and that relevant evidence is not destroyed for good. Specifically, the order was to conduct a forensic analysis with the “temporal scope . . . from January 1, 2023, to the present, with search terms and a forensic protocol for the forensic expert to follow to be agreed upon by the Parties.” (DE [96] at 2). In light of the rules of discovery and the order only permitting reasonable searches for documents relevant to this case, Shafer has not demonstrated that she would suffer irreparable harm absent a stay of the Court’s prior rulings.

Because the first two factors weigh against granting the stay, and courts are to assign greater weight to these two factors, and because the last two factors generally tilt

in the favor of the party opposing the stay, it is unnecessary to address the third and fourth *Swain* factors. See *Swain*, 958 F.3d at 1088. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Motion to Stay (DE [99]) is **DENIED**.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 21st day of February 2024.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 8, 2024, I electronically filed the foregoing document with the Eleventh Circuit Court of Appeals using CM/ECF and thereby served counsel of record.

/s/ Shlomo Y Hecht
SHLOMO Y HECHT